Study on judges' training needs in the field of European competition law

Final report

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Study on judges' training needs in the field of European competition law

Final report

by
ERA – Academy of European Law
EJTN – European Judicial Training Network
Ecorys

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1. Executive Summary

1.1. Scope

This study presents:

- a mapping of national jurisdictions for the application of EU competition law, including an analysis of judges' needs in terms of training and networking;
- an evaluation of DG Competition's "Training of National Judges" programme.

The subject is "European competition law" as defined by Articles 101-109 TFEU, including classic antitrust law (Art. 101-102 TFEU) and the rules on State aid (Art. 107-109 TFEU) but excluding national competition law.

1.2. Methodology

The research team divided the work into three Research Areas. It was aided by an expert panel composed of senior judges and training specialists. It was also supported by members of EJTN, the Association of European Competition Law Judges (AECLJ), the Association of European Administrative Judges (AEAJ), the European Union of Judges in Commercial Matters and others.

Research Area 1 (Mapping individual jurisdictions): Following **desk research**, the research team made **targeted enquiries** to individual judges and courts and to the institutions responsible for judicial training in the Member States. It then prepared **country profiles** detailing the competent courts and describing the training of judges in EU competition law.

Research Area 2 (Training needs analysis): Judges from all Member States responded to an **online survey** about their training needs in the field. Three off-the-record face-to-face **focus groups** involving judges, judicial trainers and other key actors were held. National competition authorities (NCAs) and lawyers in private practice also participated in a **stakeholder consultation**.

Research Area 3 (Evaluation of "Training of National Judges" programme): **Scoping interviews** at EU level was accompanied by refinement of the **evaluation matrix** and selection of a sample of relevant projects to analyse. A **survey of former participants** in projects funded by the programme was conducted and **interviews** held with training providers at national level. The **monitoring system** and **performance indicators** were compared with benchmarks for grant management, reporting, data collection, transparency and accountability.

1.3. Mapping of national jurisdictions and analysis of judges' training needs

Few judges deal with all aspects of EU competition law. In very few Member States are the same courts competent at first instance for both public enforcement and private actions. While there may be an overlap in terms of the courts dealing with antitrust and State aid, there are no specialised courts for the latter and judges are rarely faced with a case. The survey revealed that most judges with experience of EU competition law had dealt with only one type of enforcement action. The country profiles provide separate details of the competent courts for public enforcement, private enforcement

and State aid. The research team also proposes six distinct profiles in terms of judges' training needs.

Table 1.1: Number of judges in the competent courts (EU total)

Source: ERA		First instance	Intermediate instance (if app)	Final instance
Public enforcement: (a) judicial review	**A[1]**	**330**	**90**	**471**
	B[2]	**305**	**26**	**104**
Public enforcement: (b) criminal sanctions	**A**	**3 335**	**1 045**	**378**
	B	**0**	**0**	**0**
Private enforcement	**A**	**14 563**	**4 777**	**697**
	B	**459**	**270**	**56**
Enforcement of EU State aid rules	**A**	**16 192**	**5 058**	**1 258**
	B	**71**	**251**	**68**

Public enforcement: (a) Judicial review of NCA decisions

Training profile 1: First-instance judges dealing with judicial review of NCA decisions

Training profile 2: Higher-instance judges dealing with judicial review of NCA decisions

In most Member States, a specific court is responsible at first instance for the judicial review of national competition authority (NCA) decisions and/or handling applications from the NCA. The basis for this may be the attribution by law of specific thematic competences or simply geographic location. There is often a reduced number of instances of appeal. The combined effect is to make the number of judges concerned relatively small. They deal more frequently with competition cases than their counterparts and the level of knowledge required of them is high. Due to this concentration and specialisation, advanced-level training programmes can be targeted efficiently at the right judges, and English-language cross-border projects are likely to be more popular than among other target groups. Demand for training among higher-instance judges may be lower as they will have to deal with the full range of civil or administrative appeals and be less likely to be specialised in competition law.

Public enforcement: (b) Criminal sanctions for breaches of competition law

Training profile 3: Judges dealing with criminal sanctions for antitrust infringements

In seven Member States[3], certain breaches of competition law attract criminal liability. Cases are nevertheless rare and the judges concerned are not specialised. It is therefore difficult to target training efficiently. Criminal judges might be better served by ensuring the availability of on-demand training resources in local languages.

[1] *Number of judges who may potentially have to deal with a competition law case*
[2] *Number of judges specifically allocated to deal with competition cases.*
[3] *Denmark, Estonia, France, Greece, Ireland, Romania and the UK.*

Private enforcement

Training profile 4: Specialised judges dealing with private enforcement

Training profile 5: Non-specialised judges dealing with private enforcement

Enforcement of EU competition law through private actions is more common in some Member States than others. The new Damages Directive is expected to result in more such actions. Targeting training activities at judges who may be faced with a private action is much more difficult than at judges dealing with public enforcement, however, because in most Member States such actions are treated in the same way as other commercial disputes. There are, however, a number of important exceptions in jurisdictions where selected courts are specialised in competition-related disputes. In these Member States, it is possible to target training actions at the right judges. It may also make sense to provide training locally, in local languages, and with a clear connection to national procedural law. In the rest, while the number of judges potentially dealing with private actions is relatively high, the likelihood of these judges having actually to do so is conversely low. Reaching this target group is therefore a major challenge and these judges may be better served by ensuring the availability of on-demand training resources.

Enforcement of the EU rules on State aid

Training profile 6: Judges dealing with State aid-related cases

Issues related to State aid may arise in a wide variety of cases (administrative decisions, public procurement, subsidies, tax etc.) and the handling of them is rarely if ever channelled to specific courts While the number of judges who could potentially deal with State aid is large, the lack of cases means that the number who have actually done so is very small. It is therefore virtually impossible to target training on this subject efficiently. In Member States in which the administrative courts have clearly defined competence for cases involving State bodies, it might be possible to design a training programme aiming to provide a common standard level of knowledge. It might also make sense to focus resources on appeal and supreme courts, where the judges concerned can be more easily identified. Otherwise judges should at least have access to on-demand training resources.

Specialisation of courts: key to training needs

In most Member States, the courts competent for public enforcement of EU competition law at first instance are specialised to some degree. In some but by no means all Member States, competence for private actions is also concentrated on a limited number of courts. As appeals will usually be heard by a specific court, there is also *de facto* specialisation at higher instances. For cases involving State aid or criminal sanctions, there are no such specialised courts. This results in a very wide spectrum in terms of the numbers of judges who need training in EU competition law, the level of their knowledge, the frequency with which they will hear competition-related cases and the type of training they need. The specialisation of courts can be considered a major factor in determining the quality and efficiency of training in EU competition law.

Language skills

The study found that while English is appropriate as a *lingua franca* for judges participating in cross-border exchanges or advanced training, many judges prefer to be able to access training resources in their native language – in which they will also have to write their judgments – and a significant number, especially among those

requiring basic or on-demand training, lack the skills to be able to participate in English-language programmes.

Training opportunities and preferences

Some two-fifths of survey respondents had participated in a judicial training programme on EU competition law. European-level training institutes, national judicial training providers and universities, which have been frequent beneficiaries of the funding programme, all played an important role. The European Commission and NCAs are also important for specialised judges. There appear to be few other providers of training for judges in this field. In many Member States, the only training opportunities were provided with financial support from the Commission.

While demand for more training was high among survey participants, the number of judges concerned is generally low, so many national training institutions prefer to make use of places on programmes by other providers than to organise their own. Trainers noted the potential inefficiencies of the current Programme in that proposals were not scrutinised on how they could build upon previous programmes and may duplicate previous courses in terms of the content and level of training.

Demand for training on economic aspects is not high but it is important to distinguish the specific needs of different target groups. Both judges and trainers value cross-border training. Many judges are keen to participate in joint training with other legal professions as long as confidentiality is respected. Less than a third of survey respondents had used distance-learning but over half expressed interest in doing so.

Networking, databases and cross-border activities

There are few opportunities for judges to meet judges from other Member States who deal with competition law. Awareness of AECLJ could be raised considerably given its unique role as a forum for judges in this field. The competition-focused exchange programme launched by EJTN and AECLJ in 2015 is a positive development. It is important to improve access to databases of EU and national case law by providing translations – at least of summaries or key passages – into more languages than only English.

1.4. Evaluation of the "Training of National Judges" programme

The evaluation criteria of effectiveness, efficiency, coherence, relevance and added-value at EU level were specified by the Commission in its call for tenders and were complemented by the analysis of complementarity and sustainability.

Relevance

The Training of National Judges Programme was launched in 2002 as a response to the new powers of the national judiciary in the application of EU competition law but was not accompanied by a systematic analysis of the training needs. The mapping carried out as part of this study represents the starting point to assess the relevance of the Programme and to allow the Commission to adopt the most efficient and effective approach for project generation. The availability of European funding is based on the assumption – confirmed by the mapping – that a need exists which is not covered at national level. All stakeholders agreed on the relevance of the Programme in absolute terms but also that training in this field will often be a lower priority in relative terms due to the scarcity of cases.

The Programme addresses exclusively judicial actors, meaning that other professions, such as lawyers, are not part of the target group. Most actors stressed that this is the "right" audience but that involving other parties could create a potentially fruitful exchange. It is suggested to allow for complementary open sessions.

Effectiveness

Analysis is complicated by a number of factors, for example most judges do not deal exclusively with competition cases so an objective measure of training and caseload is not possible. Even the number who have attended training funded by the Programme is unclear: the Commission reports that there have been 7,000 participants but this is based on a mix of exact numbers and estimates, and refers to individual participations and not to individual judges (who may – and do – participate more than once). Despite this lack of homogeneous quantitative data, the qualitative research suggests that the Programme has largely been effective in meeting its four key objectives[4], though the study also makes recommendations for improvement in all of these areas.

Efficiency

The current budget for the Programme is sufficient from the beneficiaries' perspective and the Commission uses the negotiation phase following the funding award to ensure value-for-money. A comparison of the Programme's cost-efficiency with national training provision is difficult given that the international nature of projects (entailing extra costs such as travel and/or interpretation) is one of the Programme's specific added values.

The Programme currently uses a system of calls for proposals for co-funded grants, which has become more and more prescriptive in terms of the projects it will support. In practice, however, the nature, scope and size of the activities is still quite heterogeneous. An alternative funding approach used by the Commission to support judicial training is procurement (e.g. DG ENV, DG JUST). This allows it to set specific objectives that training providers must fulfil and to develop a more coherent and sustainable training programme. Given that each approach has its advantages and disadvantages, the study recommends adopting a mixed approach combining the two. This would allow the Commission to maximise the efficiency and effectiveness of the available funding according to the typologies of training needs.

Coherence and complementarity

The Programme plays a key role in the dissemination of knowledge in this area of law at national level. It is the only funder of EU competition law training in a number of countries and is generally complementary to national programmes where they exist, as confirmed by the survey of former participants. Coordination with key players further contributes to boost coherence and complementarity.

In terms of horizontal complementarity with other EU funding programmes, some stakeholders question the separation between the DG COMP and DG JUST judicial training programmes. The study, however, finds this to be justified and appropriate due to the specific nature of competition law and suggests reinforcing it, notably through a separate budget line. This would help address the anomaly whereby EU competition law applies fully in Denmark and the UK but they are not eligible for funding due to non-participation in the Justice Programme.

[4] *1. Improving judges' knowledge, application and interpretation of EU competition law; 2. Supporting national judicial institutions in the field of competition law; 3. Networking; 4. Developing judges' language and terminology skills.*

EU added value

The organisation of the Programme at European level has an indisputable added value when compared to what could be achieved by Member States at a national or sub-national level. This is strongly connected to the need for a coherent application of EU competition law throughout the Member States, which is encouraged through common training programmes, cross-border exchanges and the pooling of resources.

Sustainability

Measuring the sustainability of actions funded by the Programme is difficult for several reasons. Most projects do not fit into a structured training programme continuing over time and, for many participants, the knowledge acquired is only of potential relevance because there is no guarantee that they will have a case. Former participants nevertheless reported that they mostly recalled the content of programmes in which they had participated, but made relatively little use of networks, tools or skills acquired.

The sustainability of projects is influenced by a number of factors beyond the Programme's control (e.g. technical access, turnover of judges) but these limitations need to be taken into account by the Programme managers. Scattered, one-stop initiatives have a lower probability of being sustainable over time. In particular, building communities or networks or developing resources that can be re-used and updated requires the active engagement of training providers for the long term.

Programme monitoring system and performance indicators

The implementation of the Programme is currently monitored through ongoing communication with project beneficiaries, on-the-spot visits, the final report of each project, and the provision of a few specific performance indicators. Although effective, these monitoring activities have a non-structured nature, making it difficult to report on, share and compare the information. The study therefore proposes a more systematic approach, giving beneficiaries a clear reference framework for gathering information to monitor and evaluate performance, and recommends further indicators (from essential to beneficial) and tools for the Commission to make use of the feedback received. It also proposes a common draft evaluation form for participants.

1.5. Conclusions and recommendations

The study ends with conclusions and recommendations related to each of the sub-sections of Chapters 3 and 4 mentioned above. The key recommendations are:

Regarding the training of judges:

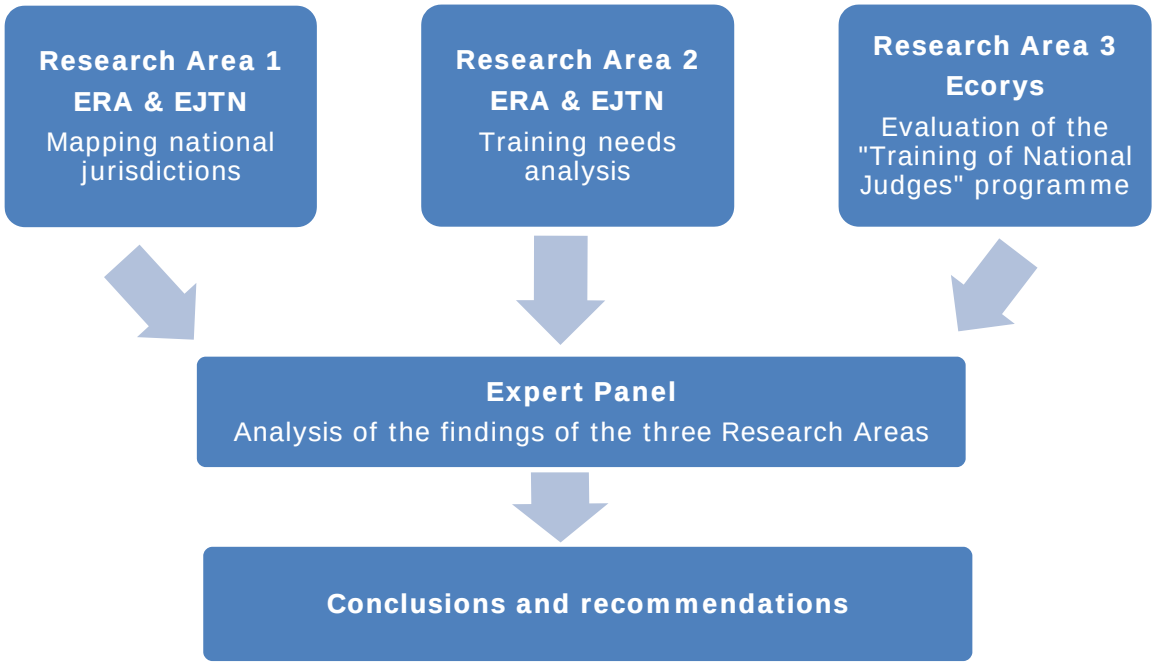
- To target training for judges dealing with judicial review of NCA decisions more on the specific needs of this relatively small group;
- To provide similarly targeted training for judges in courts specialised in competition-related private actions;
- To ensure that the rest of the judges dealing with private actions or State aid have access to on-demand training resources in local languages;
- To promote cross-border networking, exchanges and language-learning in particular among more specialised judges;
- To encourage the concentration of competition-related cases on judges and courts specialised in this field.

Regarding the funding programme:

- To continue the programme as a main source of funding for judicial training in the field, focusing on jurisdictions that have under-benefitted until now;
- To target grants on the specific needs of different training profiles and/or to consider procurement as a more efficient method to target funding;
- To develop a more systematic and documented approach to performance indicators, monitoring and reporting;
- To coordinate more strongly with target groups and training providers to ensure that programmes meet judges' current needs;
- To establish a separate legal base from the Justice Programme.

2. Methodology

The research team divided the research tasks for this study into three distinct Research Areas, each building on the other:



2.1. Research Area 1: Mapping individual jurisdictions

The work on this research area was conducted by the research team based at ERA with the support of numerous individual members of the European Judicial Training Network (EJTN), the Association of European Competition Law Judges (AECLJ), the Association of European Administrative Judges (AEAJ), as well as individual judges and experts (a full list of the contributors is contained in Annex 1.2).

In the first instance, the research team used previous studies[5] concerning the competent jurisdictions for competition law, on the enforcement of the State aid rules and on judicial training in each of the Member States to identify as much information as possible that was already available in the public domain. This revealed significant gaps in knowledge relevant for the present study, either because the information was simply unavailable (concerning, for example, the concrete number of judges dealing with competition-related cases or the courts responsible for actions related to State aid) or because it was not specific enough (in terms, for example, of the distinctiveness of national procedure in the field of competition law).

[5] *e.g. European Parliament Study on Judicial Training in the EU, 2011; CEPEJ Report, Council of Europe, 2014; Pilot field study on the functioning of the national judicial systems for the application of competition law rules, DG Justice, 2014; Study on the Enforcement of State Aid at National Level, Derenne, Jestaedt, Ottervanger, 2006 (update 2009).*

As a result, the research team then made targeted enquiries to individual judges and courts (identified mainly thanks to AECLJ) and to the institutions responsible for judicial training in the Member States (via EJTN). This was facilitated by having had the opportunity to present the study project to the Annual Conference of AECLJ in Uppsala on 4-6 June 2015 and to the General Assembly of EJTN in Riga on 15-16 June 2015. Where necessary, such contacts were supplemented by approaches to individual judges and experts from ERA's existing network of contacts. Furthermore, the research team was able to count on the support of the Association of European Administrative Judges in gathering information on competence for State aid.

On the basis of this research, the research team prepared draft country profiles which were re-submitted to the network of contributors mentioned above and subjected to several rounds of editing. The country profiles for each of the 28 EU Member States provide answers to the following questions:

- Which courts handle EU competition law and State aid-related issues, including contact details?
- How many judges (potentially) deal with EU competition law in these courts?
- How is the training of judges organised in general?
- What training is and has been offered on EU competition and State aid law?
- What official networking opportunities exist for judges from other Member States and with other legal professionals?

One question – concerning the turnover of judges in the competent courts – proved to be difficult to answer in a manner that was meaningful for such a comparative study. While it is certainly important to know not only how many judges at a given point in time deal with competition law, but also the number over a given time period who might be confronted with it, the variations in degree of specialisation, method of composition of chambers and other factors make it difficult to produce a comparable figure. A narrative explanation is included below in section 3.6.

Variations in the degree of specialisation of different courts also result in a lack of comparability in the number of judges per court dealing with competition law. The research team has therefore classified the number given for the competent courts according to one of the two following categories:

- "A" refers to the number of judges who may potentially have to deal with a competition law case: this is most often the case with the courts competent for private enforcement, criminal sanctions or State aid-related matters, in which a relatively large number of judges each have a correspondingly low chance of handling such a case.
- "B" refers to the number of judges who are specifically allocated to deal with competition law cases: this is most often the case with the courts competent for public enforcement, but also applies to other courts in some jurisdictions, in which a relatively small number of judges is responsible for competition law cases with a correspondingly higher likelihood of handling them. It should be noted that the determining criterion is whether the judges are allocated such cases, not whether they have "specialised" in an academic sense in the field.

In short, "A" numbers will generally appear high but there is a low probability that the judges concerned will ever have to deal with a competition or State aid-related case, whereas "B" numbers will generally appear lower but the judges concerned are more likely to have to apply EU competition law. This is a key distinction in terms of defining training needs and targeting actions efficiently. A more detailed analysis of the

different training profiles of judges dealing with EU competition law is contained below in Section 3.7.

Despite being mentioned in the inception report, the research team elected not to include in the country profiles the number of cases related to EU competition law or State aid that have been resolved in each Member State. Some research has already been conducted on this[6] but the results are either partial or based on such different methodologies that it is difficult to rely on them as a basis for comparison. While it would certainly be interesting to explore potential correlations between the efficiency of court systems and the way in which they are organised, as agreed with the Commission, this would require considerable additional research beyond the scope of the current study.

2.2. Research Area 2: Training needs analysis

The research in this area was conducted by ERA with support from EJTN and members of AECLJ. The aim was to provide a clear picture of the training and networking needs of both specialised judges dealing regularly with competition law and generalist judges who may be faced with it on a case-by-case basis (see Annex 2.1).

2.2.1. Survey of judges (Annex 2.4.)

An online survey of judges focusing on self-assessment of their needs in the field of competition law was launched in early July in English, French and German. Given that the research team had no clear picture at the outset as to which courts were competent for the application of EU competition law and the State aid rules, no pre-selection of respondents was conducted. Any judge or member of court staff could respond to the survey, though it was clear to respondents that it referred specifically to training needs in the field of EU competition law and not to other topics. The survey questions were structured in such a way as to allow responses to be filtered, thus ensuring their relevance for the needs analysis required by this study.

The survey was circulated to:

- national judges dealing regularly with EU competition law via members of AECLJ;
- both specialised and non-specialised judges who may have to deal with competition-related cases via the national judicial training institutions belonging to EJTN–;
- members of the Association of European Administrative Judges;
- members of the European Union of Judges in Commercial Matters;
- as well as former participants from ERA's own database[7].

A staggered deadline was given: judges were asked to respond until the end of July but, taking into account the holiday period, were informed that responses would be

[6] *Pilot field study on the functioning of the national judicial systems for the application of competition law rules, DG Justice, 2014*

[7] *The research team believes that the fact that the survey was distributed to ERA's own database did not unduly influence the result. Only one of the questions in the survey (related to previous experience of judicial training on EU competition law) referred to a type of training provider, and none to a specific provider. The main channels of distribution were national courts and judicial training providers. The majority of respondents had not participated in any training programme on EU competition law, let alone one organised by ERA.*

accepted until the end of August. A status report on the response rate was sent to partners in early August, who in turn sent reminders to potential respondents.

In order to establish the representativeness of the responses, the research team aimed to ensure a response rate from each Member State proportional to its share of the judicial population. On this basis, the response rate from 18 of the 28 Member States at the end of August was considered to be satisfactory.

Follow-up actions were conducted in September for those Member States that the research team considered to be relatively under-represented in terms of the response rate (Croatia, Czech Republic, France, Italy, the Netherlands, Poland, Spain, Sweden). To this end, the research team translated the survey into Italian, Polish and Spanish and re-launched it via its partners in the respective countries in early September. The final deadline to submit responses was 25 September 2015.

Whereas the response rate from both Slovakia and the UK was relatively low in comparison to other Member States, the research team decided not to undertake follow-up actions in these Member States. Given that both countries have an exceptionally high degree of specialisation in terms of both private and public enforcement, it concluded that the few responses from those countries in fact represented an adequate response rate from the relatively small group of judges who deal with competition law as compared to the entire judicial population.

The relaunch of the survey in Italy, Poland and Spain in their respective languages resulted in very satisfactory response rates. The response rate in Croatia and the Netherlands also improved. The response rates for the Czech Republic, France and Sweden remained disappointing, though *de facto* (rather than formal) specialisation in the Czech Republic and Sweden may also explain the low number of responses from those countries.

The research team investigated the over-proportionate response rate from Denmark and concluded that there were no abnormalities – simply a higher than usual response rate from non-specialised judges, which must be discounted in any country-by-country comparison but does not affect the overall survey results.

The mapping conducted under Research Area 1 will enable any future survey or needs analysis of judges in the field of EU competition law to target the competent courts directly.

In total, 1220 users opened the online survey but only 711 respondents replied to all questions and made it to the very end. A further 132 replied to some – indeed most – of the questions but broke off before the end. It should be noted that individual users had the option to interrupt and return to the survey, so those who broke off can be assumed not to have returned and thus not to have duplicated earlier responses. The research team decided to include these partial responses in its evaluation because the profile of those who broke off did not differ from those who completed the entire survey, so the representativeness of the results would not be affected but the data pool would be deeper. Ecorys applied the same approach to the results of its survey of former participants in training funded by the Training of National Judges programme. As a result, the total number of valid responses to the needs analysis survey is 843. The detailed responses to the survey are presented in Annex 2.4.

2.2.2. Focus groups

Three face-to-face discussion groups were held to analyse trends emerging from Research Area 1 and the initial results of the needs analysis survey, as well as to focus in depth on specific questions:

- Lisbon, 18 September 2015, with the support of the Portuguese Centre for Judicial Studies. Judges and prosecutors from the specialised court for competition and regulation as well as generalist judges from the civil courts participated, alongside judicial trainers, representatives of the national competition authority, the Portuguese competition lawyers' association and Portuguese beneficiaries of the "Training of National Judges" programme. Portugal was chosen for this focus group as it has historically had the highest number of participants in events funded by the "Training of National Judges" programme.

- Scandicci (Florence), 22 September 2015, with the support of EJTN and the Italian School for the Magistracy. This group focused on judicial trainers. Members of the EJTN sub-working group on civil justice, regardless of whether they have been directly involved in competition law training, and some of the main recent beneficiaries of the "Training of National Judges" programme (EUI, GVH/OECD), participated.

- Helsinki, 24 September 2015, with the support of the Finnish Market Court and the Finnish Ministry of Justice. Judges from the Market Court, Helsinki District and Appeal Courts and the Supreme Court participated. Finland was chosen for this focus group due to the unusually high number of damages actions currently pending before the Helsinki District Court.

Each of the groups was presented with the initial results of the needs assessment survey and invited to participate in a structured discussion led by the research team. In order to encourage openness, the participants were informed that the discussion would be off-the-record and their individual comments would not be reported. For this reason, a list of the institutions that were represented at the focus groups and an anonymised summary of the discussions is included in Annex 2.5 but not a detailed report.

2.2.3. Consultation of stakeholders

In addition to performing a needs analysis with judges themselves, the research team sought to consult the other parties to the judicial process, namely the national competition authorities and the national bars and/or groups of lawyers dealing with competition law in the Member States, on their views of the training needs of judges in this field (see Annex 2.6.).

Consultation of national competition authorities

Thanks to the Italian Competition Authority, in particular Gabriella Muscolo, its Commissioner and member of the expert panel for this study, the research team had the opportunity to present the current study project to high-level representatives of the European Competition Authorities at their annual meeting in Bergen on 10 June 2015. Subsequently, all national competition authorities were invited to participate in a consultation in the form of a short list of open questions on their views regarding the training needs of judges in the field of EU competition law. The research team has

received answers from 15 national authorities (Croatia, Cyprus, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Sweden, UK).

Consultation of lawyers in private practice

The research team also consulted lawyers in private practice on the same set of questions as the national competition authorities. It identified associations specifically for competition counsel (as distinct from associations for competition law in which both practitioners – including judges - and academics are active) in at least eight Member States (Austria, Belgium, Czech Republic, Germany, the Netherlands, Poland, Spain, UK). It asked these associations to respond to the same set of questions as the national competition authorities. For the remaining Member States, it circulated an online questionnaire to individual practitioners with similar questions in order to elicit an aggregate appraisal of their views of judges' training needs.

2.2.4. Online discussion forum

As a contingency measure if the response rate to the online survey or other sources of needs analysis proved to be inadequate or unrepresentative, the research team set up an online discussion forum on which selected preliminary results of the survey mentioned above were posted. Despite having been circulated via the network of contributors in Annex 1.2, the discussion forum was not used. Given the satisfactory results of the other research methods, however, the research team is of the view that this does not have any detrimental effect on its findings.

2.3. Research Area 3: Evaluation of "Training of National Judges" programme

Research Area 3 was conducted by Ecorys. The evaluation of the Training of National Judges Programme (hereafter also referred to as "the Programme") has both a backward- and a forward-looking perspective. It is looking backwards to understand the key issues related to the Programme (what has happened, why and how much has changed as a consequence) and to set the basis for the provision of inputs and recommendations regarding future editions. A number of key purposes are served by this evaluation[8] including:

- Provide timely and relevant advice to decision-making and priority-setting;
- Lessons for organisational planning;
- Transparency and accountability; and
- Efficient resource allocation.

The focus of this evaluation is based on a series of evaluation criteria: effectiveness, efficiency, coherence, relevance, added-value at EU level. Where possible we also take into account the criteria of complementarity and sustainability. These criteria analyse the existing interlinkages between the different items of the Programme's intervention logic.

[8] *See Public Consultation on Commission Guidelines for Evaluation (November 2013).*

Readiness of the "Training of National Judges" Programme for evaluation: risks and limitations

Throughout the evaluation, a series of key risks have been identified which have an impact on the evaluability of the Programme. Such risks can be identified in relation to the intervention logic, data, information and indicators, cooperation in terms of survey response, comparability and benchmarking (details on the evaluability of the Programme are outlined in Annex 3.2). Complementarily, and in a more specific form, the commented evaluation matrix (Annex 3.3) informs on the main challenges and limitations related to each evaluation question and the typology and characteristics of the available data and information supporting the analysis.

Evaluation activities

The evaluation process consisted of three phases:

I: desk research & EU/programme level interviews;
II: survey among participants;
III: national interviews, focus groups and expert panel

In addition, throughout the phases the monitoring system and performance indicators were evaluated. In the following we provide a brief overview on each phase (further details are outlined in Annex 3.2).

2.3.1. Phase I: desk research & EU/programme level interviews

Phase I consisted of the following activities:

- **11 scoping interviews at an EU/Programme level**, digging into aspects such as: the relevance of the programme, its intervention logic, an overview of the calls for proposals and their functioning, the availability of data, identification of relevant documents and stakeholders, information on the monitoring and performance system and analysis of the main evaluation questions (the topic guides for the interviews are included in Annex 3.6);

- A meeting with the **expert panel**, where the evaluators shared and validated the first and preliminary findings, the proposed evaluation approach and methods, as well as specific aspects related to the evaluation questions. Building on this, the evaluation matrix (final version in Annex 3.3) was updated with specific comments on each evaluation question;

- Refining of the draft evaluation matrix (which was presented in the proposal – the final version can be found in Annex 3.3) on the basis of interviews and expert panel feedback and the identification and **revision of relevant documents**;

- **Selection and analysis of a sample of relevant projects**, covering the application forms, evaluations of the European Commission, the final reports and the reactions on the final reports (details on selection criteria are presented in Annex 3.3).

2.3.2. Phase II: survey among participants

Based on the first findings and the evaluation framework, a survey questionnaire for Programme participants was prepared, taking into account the other general needs survey and the comments and feedback from a number of Commission representatives. (Annex 3.5 includes the questions, a response rate and survey steps report and the entire set of answers to the survey, agreed and validated by the Commission.)

The aim of the **survey** was to receive answers from a (qualitatively) representative sample of participants, covering a broad range of Member States and professions admissible to the events.

Since no contact databases existed, the launch of the survey required an extensive preparatory work: receiving a list of training providers (corresponding to the calls for proposals from 2010 to 2014) from the Commission, informing them about the evaluation, and asking for their cooperation (provision of contact lists of their participants or direct dissemination of the survey).

The survey outcomes were evaluated both quantitatively and qualitatively, feeding into the preliminary analysis of Phase I. Moreover, the research team used them as a basis for discussion in the consultation activities foreseen under Phase III.

2.3.3. Phase III: national interviews, focus groups and expert panel

Phase III consisted to a large extent of a number of consultations at national and international level:

- The **interviews at national level** addressed a number of training providers. These consultations provided a clearer overview of the Programme from the providers' perspective, to comment on its objectives and functioning, using the survey results as an important basis for discussion. Moreover, these interviews provided direct information on other existing training programmes for judges in the field of competition law and to ask specific questions regarding the monitoring systems and performance indicators used in the context of other initiatives (mainly in terms of internal tools at a provider organisation level). The topic guide is included in Annex 3.6.

- The second session with the **expert panel** (11 April 2015) was used to discuss the preliminary analysis of the survey responses, their representativeness, the qualitative interpretation of findings and the implications for the Programme;

- Third key activity of this Phase was the attendance to two **focus groups** (Lisbon and Scandicci). These gave the possibility to present and discuss the draft analysis of survey results and to go in-depth on the specific issues relevant for training providers (Scandicci) and judicial staff, lawyers and training providers (Lisbon).

2.3.4. Evaluation of the monitoring system and performance indicators

The evaluation of both the Programme's monitoring system and performance indicators used as starting sources of information the scoping interviews, the desk analysis and the different consultations at national and international level. This

information was then integrated on the basis of benchmarking with other relevant programmes and initiatives.

As far as the Programme monitoring system is concerned, the evaluation mainly focused on aspects such as the functioning of the grant management system; the reporting function and its relevance; data generation and collection tools; and transparency and accountability.

Regarding the Programme performance indicators, the analysis mainly covered the characteristics of the existing indicators in order to identify their main strengths and weaknesses. Complementarily, the evaluators have also considered the option of using additional indicators established in the framework of the Justice Programme, as well as potential examples from other programmes with similar characteristics.

In addition, and in relation to the collection of information at a beneficiary and participant level, the evaluation also includes a proposal for a training evaluation questionnaire to be used by training providers that should be conceived as one of the integrating tools for the information generation, collection, monitoring and reporting, thus also providing a basis for evaluation activities.

The key findings of the evaluation of the Programme are presented in chapter 4 of this report. Further detailed findings, methodological descriptions, interview and survey templates as well as additional data are presented in the annexes to this report.

2.4. Expert panel

The research team has been supported and guided at each stage of the process by an expert panel of senior judges and judicial trainers with experience in the field of EU competition and State aid law:

- Wolfgang Kirchhoff, Judge, German Federal Court of Justice
- Assimakis Komninos, Partner, White & Case LLP; former Commissioner, Hellenic Competition Council
- Nina Korjus, Judge, Finnish Market Court
- Gabriella Muscolo, Commissioner, Italian Competition Authority
- Wojciech Postulski, Judge; Secretary General, EJTN
- Jacqueline Riffault-Silk, Judge, Cour de Cassation, Paris; President, AECLJ
- Adam Scott, Director of Studies, Competition Appeal Tribunal, London
- Diana Ungureanu, Judge, Court of Appeal; Trainer, NIM, Bucharest
- R.R. Winter, Judge, Trade and Industry Appeal Tribunal, the Hague

3. Mapping of national jurisdictions and analysis of the training needs of judges dealing with the application of EU competition and State aid law

3.1. Historical background

The application of EU competition law developed in stages. Although the European Court of Justice (CJEU) held that Articles 101-102 TFEU were capable of producing direct effect at the national level[9], the European Commission was initially the only institution capable of granting an exemption under Article 101(3) TFEU. Accordingly, EU competition law cases mostly involved the judicial review of infringement decisions – first before the EU courts, and later increasingly at national level – while in most Member States private enforcement remained relatively underdeveloped. This applied even more so to State aid litigation: the European Commission played a central role in negotiating legitimate State aid[10] and held a monopoly in determining whether a State aid was compatible with the Common Market.

Regulation 1/2003[11] was a significant turning point in the enforcement of EU competition law at the national level. Its introduction led Member States to reform national competition laws and obliged them to apply EU competition rules whenever an alleged competition infringement may have an impact on intra-Community trade, with the full application of Articles 101-102 TFEU. This increased the need for national judges to be familiar with European Commission practice, guidance and developments in the case law of the European Courts. In addition, some Member States also developed and refined criminal-law liability for a breach of the national competition law provisions.

Regulation 1/2003 envisaged that safeguards would need to be in place to avoid competition law developing in different ways in the Member States. Article 15 envisaged a process of cooperation between the Commission and the national courts, though as the survey of national judges conducted for this study reveals, many judges remain unaware of how to apply these provisions. Upon request of the national courts, the Commission can transmit information in its possession or give its opinion on questions regarding the application of the EU competition rules (Article 15(1)); and (alongside national competition authorities) it can submit observations to national courts as *amicus curiae* (Article 15(3)). Under Article 15(2), Member States are obliged to submit to the Commission a copy of any written judgment in which Article 101 or 102 TFEU has been applied (Article 15(2)). It was within this context that the "Training of Judges" funding programme was introduced.

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[9] See, for example, BRT v Sabam, EU:C:1974:25. See also "Articles [101 TFEU] and [102 TFEU] are a matter of public policy which must be automatically applied by national courts." Eco Swiss China Time Ltd v Benetton International NV. EU:C:1999:269

[10] But the CJEU confirmed in Case C-78/76 Steinike and Weinlig EU:C:1977:52, that national courts have the competence to determine the notion of existence of of a state aid. Increasingly, this is a question that arises in national courts and tribunals. The Commission addressed the role of national courts in the Notice on cooperation between national courts and the Commission in the State aid field, published in 1995. The 1995 Cooperation Notice introduced mechanisms for cooperation and exchange of information between the Commission and national courts.

[11] Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, O J L 1, 04.01.2003, p.1-25.

State aid was not covered by Regulation 1/2003 but from 2000 onwards the Commission embarked on a programme of modernisation of State aid, allowing the Member States a greater role in self-assessment of State aid within the General Block Exemption Regulation and its various Guidelines, as well as soft- and hard-law regulation of Services of General Economic Interest and *De Minimis* principles. In 2009 the Commission updated its earlier 1995 Cooperation Notice on the enforcement of State aid by national courts.[12]

Another line in the enforcement of EU competition law emerged as a result of the acknowledgement that an individual can rely on a breach of Article 101 or 102 TFEU in the national courts, even where the individual was a party to the illegal agreement[13]. This line of case law was developed[14], raising the question of how compensation (damages) could be obtained in a coherent and effective manner in the 28 Member States given the traditional view of the CJEU that – in the absence of harmonising rules – each Member State is free to determine its own procedural rules and remedies subject to the principles of effectiveness and equivalence.

The Damages Directive[15] was adopted on 26 November 2014 and must be transposed into national law by 27 December 2016. The aim of the new Directive is to strengthen the private enforcement of EU competition law and to counterbalance the uneven distribution of litigation in different jurisdictions. It is expected that this will increase the number of competition-related cases coming before courts with little specialisation in the field and thus the training needs of the judges concerned.

3.2. Defining target groups

The historical development of EU competition law at national level has led to at least three distinct target groups among judges for training in this field:

(a) Judges dealing with the **public enforcement** of competition law: this group may be further sub-divided into
(i) those – usually in a single specific court – dealing with the judicial review of national competition authority decisions or, in a few cases, taking such decisions and
(ii) those – in a small number of Member States – dealing with criminal sanctions for the breach of competition law;

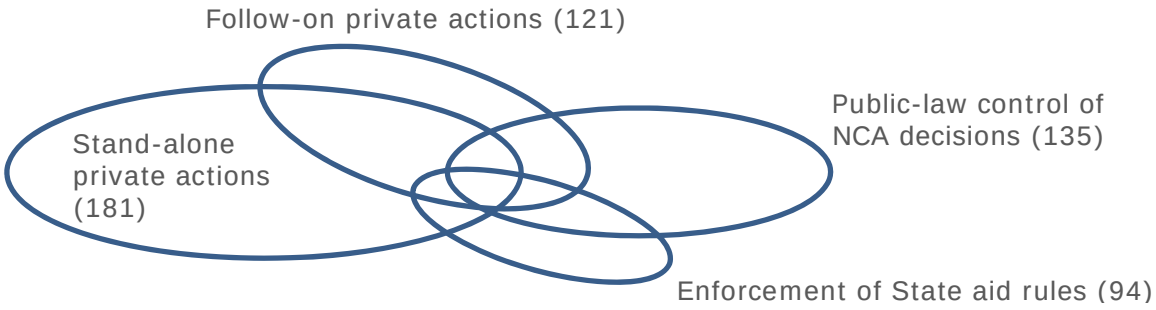
(b) Judges dealing with the **private enforcement** of competition law, whether in the form of stand-alone actions or follow-on actions subsequent to an NCA decision: this group may also be sub-divided into
(i) more specialised judges in jurisdictions in which only selected courts are competent to hear such claims, and
(ii) non-specialised judges in other jurisdictions;

[12] *Commission notice on the enforcement of State aid law by national courts, OJ C 2009 85/1.*
[13] *Courage Ltd v Bernard Crehan and Bernard Crehan v Courage Ltd and Others, EU:C:2001:465.*
[14] *Vincenzo Manfredi v Lloyd Adriatico Assicurazioni SpA (C-295/04), Antonio Cannito v Fondiaria Sai SpA (C-296/04) and Nicolò Tricarico (C-297/04) and Pasqualina Murgolo (C-298/04) v Assitalia SpA. EU:C:2006:461; Europese Gemeenschap v Otis NV and Others EU:C:2012:684; BWB v Donau Chemie AG and Others, EU:C:2013:366; Kone AG and Others v ÖBB-Infrastruktur AGEU:C:2014:1317.*
[15] *Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, OJ L 349/1, 5.12.2014.*

(c) Judges dealing with actions related to the illegal award of **State aid**: whereas it is relatively clear which courts would be competent to hear cases related to the infringement of Articles 101 or 102 TFEU, it is often difficult to predict in which court an action concerning State aid may appear. There are few special provisions for such actions in Member States' national laws. In jurisdictions where the distinction between administrative and civil justice is clearly defined, (i) administrative courts will in principle be competent for actions against State bodies but cases between competitors may be brought before (ii) the civil courts.

It is important to note that very few judges deal with all aspects of EU competition law at a given time. In very few Member States are the same courts competent at first instance for both public enforcement and private actions. As the following figurative diagram representing respondents to the survey of judges demonstrates, there are large numbers of judges who deal with only one type of enforcement action.

Fig. 3.1 Overlap of survey respondents dealing with different types of cases



Source: ERA

Only about a quarter of respondents who deal with public enforcement also had experience of private enforcement, and they were mostly from just two jurisdictions (Denmark and Germany). Moreover, even among the same pool of judges dealing with private actions, only a minority said they had experience of both stand-alone and follow-on actions. There was a higher degree of overlap among judges dealing with public-law control of NCA decisions and State aid enforcement, mainly because both are often handled by the administrative courts.

3.3. Public enforcement

3.3.1. Judicial review of national competition authority decisions

Table 3.1. *Source: ERA*	First instance	Intermediate instance (if applicable)	Final instance
A: Number of judges who may potentially have to deal with a competition law case	330	90	471
B: Number of judges specifically allocated to deal with competition cases	305	26	104

In all Member States there exists a national competition authority. In most cases, this authority is responsible for taking decisions on the infringement of EU competition law in the sense of Article 5 Regulation 1/2003[16]. In Austria and Ireland, the authority does not take the infringement decision itself but must bring a case before the court, which takes the decision. In Finland and Sweden, the authority takes the infringement decision and may order the infringer to cease, but it must apply to the court to impose a fine. In almost all Member States, a specific court is responsible at first instance for the judicial review of NCA decisions and/or handling applications from the NCA. The only exceptions to this are Denmark – in which local District Courts can theoretically perform judicial review but rarely do so in practice – and Slovenia – in which the authority's infringement decision is subject to review by one court and the fine by another.

The basis for a given court being responsible may be either the attribution by law of specific thematic competences or simply the geographic location of the competition authority and the respective court:

- **Thematic specialisation:** In no Member State is there a court dedicated solely to competition law. Even in Austria, Malta, Poland, Portugal and the UK, each of which has a court bearing "competition" in its name, the respective courts are also competent for consumer protection, sectoral regulation or other issues. Indeed, in Austria and Poland the "competition courts" are in fact chambers of larger courts, and in many other Member States a specific chamber is charged with judicial review of NCA decisions among other issues (e.g. Bulgaria, France, Germany, Italy, Romania, Spain).

- **Geographical coincidence:** Even in Member States where no specific attribution of thematic competence is provided by law, the fact that the competition authority has its seat in a particular location results in a given court being competent for judicial review of its decisions (e.g. Czech Republic, Estonia, Lithuania, Netherlands, Slovakia, Sweden).

[16] *"The competition authorities of the Member States shall have the power to apply Articles [101] and [102] of the Treaty in individual cases. For this purpose, acting on their own initiative or on a complaint, they may take the following decisions: requiring that an infringement be brought to an end; ordering interim measures; accepting commitments; imposing fines, periodic penalty payments or any other penalty provided for in their national law."*

There is often a reduced number of instances of appeal within the court system: in most Member States there are only two instances, and in Croatia and Sweden (as regards the infringement decision) there is only one.

The combined effect of all these factors is to make the number of judges responsible for the judicial review of NCA decisions relatively small compared to the numbers potentially concerned by private enforcement and State aid. These judges not only deal more frequently with competition cases than those facing private enforcement or State aid cases, on average they are also more likely to have received training on EU competition law and even have better English-language skills. More specifically, they are also more likely to have participated in European training programmes, with "European training institute" (such as ERA or EUI) being the most frequently cited provider of training for this target group.

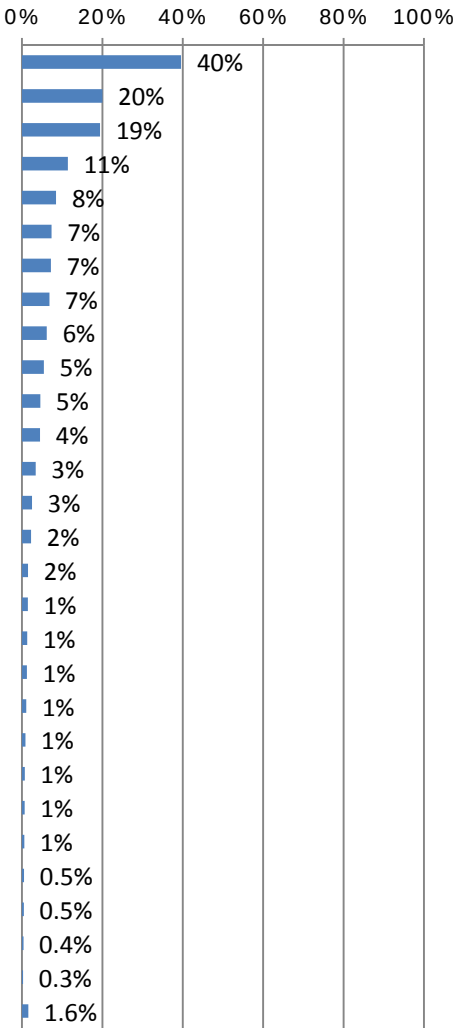
On the one hand, this makes it possible to identify needs and target training activities efficiently. On the other, it is important not to overestimate the importance of competition law in terms of the caseload – and thus priority for training – of such judges: nearly three-quarters of survey respondents with experience of judicial review said that competition cases constituted less than 25% of their annual caseload. "EU competition law is a very tiny part of my work, so participating in a long-term training would not be proportionate to the small usage of this knowledge", said one respondent to the survey who described her/himself as partially or exclusively specialised in EU competition law. "There are more important areas for my training", said another. Previous research has shown that the biggest obstacle to judges' participation in training on EU law in general is not a lack of financial resources but a lack of time and opportunities to do so[17].

Given that there is relatively little overlap between judges who deal with public enforcement and those who deal with private enforcement, and that the former group is relatively small and clearly identifiable, it is important to ensure that training programmes address their specific needs. Training programmes better tailored to the specific needs of the target group also stand a better chance of being taken up when there are so many other training priorities and opportunities to contend with. Further analysis of the different training profiles of judges dealing with EU competition law, and their consequences for designing training programmes, is contained below in Section 3.7.

[17] *European Parliament Study on Judicial Training in the EU, 2011: 32% of judges surveyed who had not received training on EU law said that it was due to lack of time; 31% due to lack of training opportunities; and 6% due to lack of funding. Among the specialised judges surveyed for this study who had not participated in training on EU competition law, 32% said that it was due to the number of places being limited; 17% due to it being incompatible with their workload; and 11% due to lack of funding.*

Fig. 3.2. Number of judges who may have to deal with judicial review of NCA decisions (A/B) in absolute terms and as a proportion of the national judicial population[18]

Member State	No. of judges
IE	57
MT	8
CY	20
EE	26
LU	18
PT	148
GR	185
LV	30
DK	23
LT	42
FI	45
UK	102
SI	33
BG	56
BE	36
CZ	46
RO	64
ES	67
HR	24
SW	12
HU	24
NL	17
DE	133
AT	9
PL	51
SK	6
IT	24
FR	20
All EU	1326



Source: CEPEJ, ERA

[18] *The table compares the number of judges in the competent courts in each Member State (as calculated in the mapping exercise conducted for this study, including either (A) those who may potentially deal with a relevant case or (B) those who are specifically allocated to do so) with the total judicial population of each Member State (as calculated by the Council of Europe for its biannual CEPEJ study). The two numbers are not directly comparable, however, so the percentages should be considered as indicative rather than exact: on the one hand, the CEPEJ data was gathered in 2012 and the data for this study in 2015; on the other, CEPEJ refers to "full-time equivalents" whereas this study refers to individual judges.*

3.3.2. Criminal sanctions for breaches of competition law

Table 3.2 *Source: ERA*	First instance	Intermediate instance (if applicable)	Final instance
A: Number of judges who may potentially have to deal with a competition law case	3 335[19]	1 045	378
B: Number of judges specifically allocated to deal with competition cases	0	0	0

In several Member States (Denmark, Estonia, France, Greece, Ireland, Romania, UK), certain breaches of competition law attract criminal liability and the criminal courts therefore have a role to play in the public enforcement of EU competition law. In France and Romania, the criminal courts can impose a prison sentence and/or a fine once an infringement has been determined. In Denmark, Ireland and the UK, the competition authority can initiate or instruct the prosecution service to bring a criminal prosecution for infringement of competition law. In all cases, such actions may be brought before any criminal court.

It should be noted that, in Portugal, the prosecution service represents the State in all court proceedings, including judicial review of NCA decisions, even though breaches of competition law do not constitute criminal offences.

[19] *This number excludes the 21 500 lay magistrates in England & Wales who may technically be faced with a criminal prosecution for competition-related offences but whose role would only be to conduct preliminary hearings before committing the case to the Crown Court.*

Table 3.3. Courts competent for the public enforcement of EU competition law

KEY

Judicial control:

J: Judicial review of national competition authority's decision.
I: Court – not national competition authority – decides on infringement of Arts. 101 or 102 TFEU as defined in Art. 5 Reg.(EC)1/2003.
Fn: Court – not national competition authority – decides on fine for anticompetitive behaviour.
C: Criminal sanctions for anticompetitive behaviour.

First instance:

*: Exclusive jurisdiction at first instance.

Number of judges[20]:

A: Number of judges who may potentially have to deal with a competition law case.
B: Number of judges who are specifically allocated to deal with competition law cases.

Grounds of appeal:

F: Facts and law.
L: Points of law only.

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Austria	J/I	Vienna Court of Appeal as Cartel Court* *Oberlandesgericht Wien als Kartellgericht*		6	n/a				L	Supreme Court as Supreme Cartel Court[21] *Oberster Gerichtshof als Kartellobergericht*		3+2
Belgium	J	Court of Appeal of Brussels* *Cour d'appel de Bruxelles/ Hof van beroep van Brussel*		6	n/a				L	Court of Cassation (First Chamber) *Cour de cassation/ Hof van Cassatie*	30	

[20] *See Section 2.1. above for more details of the distinction between "A" and "B" numbers.*
[21] *Austria: The "Supreme Court as Supreme Cartel Court" is composed of three professional judges and two lay experts.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Bulgaria[22]	J	Supreme Administrative Court (4th Division)* *Върховен административен съд*		13	n/a				L	Supreme Administrative Court *Върховен административен съд*	43	
Croatia[23]	J	n/a			n/a					High Administrative Court* *Visoki upravni sud Republike Hrvatske*	24	
Cyprus[24]	J	Administrative Court (from 2016)*	7		n/a				L	Supreme Court	13	
Czech Republic	J	Regional Court of Brno* *Krajský soud v Brně*		12	n/a				L	Supreme Administrative Court *Nejvyšší správní soud*	34	
Denmark	J	Maritime and Commercial High Court (civil division)[25] *Sø- og Handelsretten*		5	n/a				F	Supreme Court *Højesteret*	18	
	C	24 District Courts *Byretterne*	252		F	2 High Courts *Landsretterne*	94		L	Supreme Court[26] *Højesteret*		

[22] *Bulgaria: Panel of three judges from 4th Division at first instance; panel of five judges from the rest of the Court at final instance.*
[23] *Croatia: Single instance procedure.*
[24] *Cyprus: Before 2016, the Supreme Court had exclusive competence (single instance procedure).*
[25] *Denmark: In theory, a judicial review procedure could also be filed with the District Court where the plaintiff has his seat.*
[26] *Denmark: an appeal requires permission from the Appeal Permission Board and is only granted to leading cases of general interest.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Estonia	J	Tallinn Administrative Court *Tallinna Halduskohus*	16		F	Tallinn Circuit Court *Tallinna Ringkonnakohus*		5	L	Supreme Court (Administrative Chamber) *Riigikohus*		5
	C	County Courts *Harju, Viru, Pärnu, Tartu Maakohus*	144		F	Circuit Courts (Crim. Sections) *Talinna/Tartu Ringkonnakohus*	12		L	Supreme Court (Criminal Chamber) *Riigikohus*	7	
Finland	J/Fn	Market Court*[27] *Markkinaoikeus*		23	n/a				F	Supreme Administrative Court *Korkein hallinto-oikeus*	22	
France	J	Paris Court of Appeal (Chamber 5-7 Economic Regulation)* *Cour d'Appel de Paris*		5	n/a				L	Court of Cassation (Commercial, Financial and Economic Chamber) *Cour de Cassation*		15
	C	173 Correctional Tribunals *Tribunaux correctionnels*	500+		F	36 Courts of Appeal (Corr. Chambers) *Cours d'Appel (chambres correctionnelles)*	c. 150		L	Court of Cassation (Criminal Chamber) *Cour de Cassation (chambre criminelle)*	29	

[27] *Finland: Fines cannot be imposed by the NCA but by the Market Court; otherwise control of NCA decisions by the Court.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Germany	J	Higher Regional Court of Düsseldorf (Antitrust Division)[28] *Oberlandesgericht Düsseldorf (Kartellsenat)*		20[29]	n/a				L	Federal Court of Justice (Antitrust Division) *Bundesgerichtshof (Kartellsenat)*		8
		18 Higher Regional Courts (Antitrust Divisions)[30] *Oberlandesgerichte (Kartellsenat)*		105								
Greece	J	Athens Administrative Court of Appeal* *Διοικητικό Εφετείο Αθηνών*	165		n/a				L	Council of State (Second Chamber) *Συμβούλιο της Επικρατείας*	20	
	C	Single-Member Lower Criminal Courts *Μονομελές Πλημμελειοδικείο*	732		F	3-Member Lower Criminal Courts *Τριμελές Πλημμελειοδικείο*	732		L	Supreme Court (Criminal Chambers) *Άρειος Πάγος*	18	
Hungary	J	Budapest Metropolitan Administrative and Labour Court* *Fővárosi Közigazgatási és Munkaügyi bíróság Budapest*		6	F	Regional Court of Budapest *Törvényszékek*		7	L	Supreme Court (Administrative and Labour Law Department) *Kúria*	11	

[28] *Germany: Exclusive competence of OLG Düsseldorf for review of Federal Cartel Authority (Bundeskartellamt) decisions due to location of authority in Bonn in the State of North Rhine-Westphalia, in which OLG Düsseldorf has centralised competence for cartel authority decisions.*
[29] *Germany: This number includes nine judges dealing exclusively with sectoral regulatory issues (energy law etc.).*
[30] *Germany: Concentrated competence of OLGe determined by State law for review of State cartel authority decisions.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Ireland	C	District Court[31]	64		n/a				F	Circuit Criminal Court	44	
	C	Circuit Criminal Court[32]	44		F	Court of Appeal	10		L	Supreme Court[33]	10	
	C	Central Criminal Court (High Court)[34]	37									
	J/I	High Court[35]	37									
Italy	J	Regional Administrative Court of Lazio (First Chamber)* *Tribunale Amministrativo Regionale del Lazio*		6	n/a				F	Council of State (Sixth Chamber) *Consiglio di Stato*		18
Latvia	J	Regional Administrative Court* *Administratīvā apgabaltiesa*	21		n/a				L	Supreme Court (Administrative Department) *Augstākā tiesa*	9	
Lithuania	J	Vilnius Regional Administrative Court* *Vilniaus apygardos administracinis teismas*	24		n/a				F	Supreme Administrative Court *Lietuvos vyriausiasis administracinis teismas*	18	

[31] *Ireland: Summary prosecution brought by NCA for less serious cases.*
[32] *Ireland: Prosecution on indictment brought by DPP in more serious cases.*
[33] *Ireland: The Supreme Court will hear appeals from the Court of Appeal – or exceptionally from the High Court in a so-called "leapfrog appeal" – if the relevant decision "involves a matter of general public importance" or if it considers appeal in the interests of justice.*
[34] *Ireland: Prosecution of cartels and other "hardcore" offences brought by DPP.*
[35] *Ireland: Procedure to review NCA decisions and to hear actions brought by NCA to stop anti-competitive activities.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Luxem-bourg	J	Administrative Tribunal *Tribunal Administratif*	13		n/a				F	Administrative Court *Cour Administrative*	5	
Malta	J	Competition & Consumer Appeal Tribunal* *Tribunal għal Talbiet tal-Konsumaturi*		3	n/a				L	Court of Appeal (Civil Jurisdiction) *Qorti Ta' l-Appell*	5	
Nether-lands	J	District Court of Rotterdam (Administrative Team)* *Rechtbank Rotterdam*	7		n/a				F	Trade and Industry Appeals Tribunal *College van Beroep voor het bedrijfsleven*	10	
Poland	J	Court of Competition and Consumer Protection in Warsaw* *Sąd Ochrony Konkurencji i Konsumentów (SOKiK)*		12	F	Court of Appeal of Warsaw (Civil Division) *Sąd Apelacyjny w Warszawie*	21		L	Supreme Court (Chamber for Labour Law, Social Security and Public Affairs 3rd Division) *Sąd Najwyższy*	18	
Portugal[36]	J	Competition, Regulation and Supervision Court* *Tribunal da Concorrência, Regulação e Supervisão*		3	n/a				F	Court of Appeal of Lisbon *Tribunal de Relação de Lisboa*	145	

[36] *Portugal: State representation before the courts exclusively ensured by Public Prosecution Service.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Romania	J	Court of Appeal of Bucharest (Administrative Section)* *Curtea de Apel București*	40		n/a				L	High Court of Cassation and Justice (Administrative and Fiscal Section) *Inalta Curte de Casație și Justiție*	24	
	C	177 Courts of First Instance[37] *Judecătorii*	494		n/a				F	15 Courts of Appeal (Criminal Sections)[38] *Curtea de Apel*	218	
		41 Tribunals[39] *Tribunale*	215									
Slovakia	J	Regional Court of Bratislava* *Krajský súd v Bratislave*		3	n/a				L	Supreme Court *Najvyšší súd Slovenskej republiky*		3
Slovenia	J	Administrative Court (Competition Panel)* *Upravno sodišče*		3	n/a				L	Supreme Court (Commercial & Administrative Divisions) *Vrhovno sodišče*		5
	J[40]	County Court of Ljubljana (Misdeamenours Dept) *Okrajno sodišče v Ljubljani*		4	F	Higher Court of Ljubljana (Crim.) *Višje sodišče v Ljubljani*		14	L	Supreme Court (Criminal Division) *Vrhovno sodišče*		7

[37] *Romania: Criminal anticompetitive behaviour not involving organised crime is prosecuted before the Courts of First Instance.*
[38] *Romania: Two-instance criminal procedure.*
[39] *Romania: Criminal anticompetitive behaviour involving organised crime is prosecuted before the Tribunals.*
[40] *Slovenia: Exceptionally, whereas the NCA's decision on the infringement of competition law can be reviewed by the Administrative Court, its decision on the fine to be imposed can only be reviewed by the criminal courts.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Spain	J	National High Court* (Administrative Section) *Audiencia Nacional de España*		34	n/a				L	Supreme Court (Administrative Section) *Tribunal Supremo*		33
Sweden [41]	J	n/a			n/a					Market Court*[42] *Marknadsdomstolen*		7
	Fn	Stockholm City Court[43] *Stockholms Tingsrätt*		5	n/a				F	Market Court *Marknadsdomstolen*		7
United Kingdom	J	Competition Appeal Tribunal		31	L [44]	*England & Wales:* Court of Appeal	43		L	UK Supreme Court[45]	12	
						Scotland: Court of Session (Inner House)	12					
						Northern Ireland: Court of Appeal	4					

[41] *Sweden: The information corresponds to the situation at the date of delivery of this study on 9 January 2016. Legislation is pending before the Swedish Parliament that would change the distribution of competence for both public and private enforcement of competition law from 1 September 2016 . Please see the country profile in Annex 1.1. for an explanation of how the legislation, if adopted, would change the distribution of the relevant competence.*
[42] *Sweden: Single instance procedure.*
[43] *Sweden: Exclusive competence for adopting and reviewing decisions on fines and the prohibition of concentrations.*
[44] *UK: Second-instance appeals only if permission is granted by CAT or respective court of appeal.*
[45] *UK: The Supreme Court selects which appeals it will hear.*

	Judicial control	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
United Kingdom (cont.)	C	*England & Wales:* Magistrates Courts or Crown Court	21500 600+		L	*England & Wales:* Court of Appeal	43		L	*England & Wales:* UK Supreme Court	12	
		Scotland: Sheriff Courts	c. 200		n/a				L	*Scotland:* High Court of Justiciary (Court of Criminal Appeal)	22	
		Northern Ireland: Magistrates Courts or Crown Court	21+ 32		L	*Northern Ireland:* Court of Appeal	4		L	*Northern Ireland:* UK Supreme Court	12	

3.4. Private enforcement

Table 3.4. *Source: ERA*	First instance	Intermediate instance (if applicable)	Final instance
A: Number of judges who may potentially have to deal with a competition law case	14 563	4 777	697[46]
B: Number of judges specifically allocated to deal with competition cases	459	270	56

The European Union and several Member States have taken measures to encourage enforcement of EU competition law through private actions. In some jurisdictions (notably Germany), private enforcement already represents a major route to seek legal protection for infringements of competition law (e.g. actions for statements of contract invalidity, for supply, for access to essential facilities). This is reflected in the responses to the survey of judges, of whom significantly more dealt with stand-alone private actions (181) than with public-law control of NCA decisions (135).

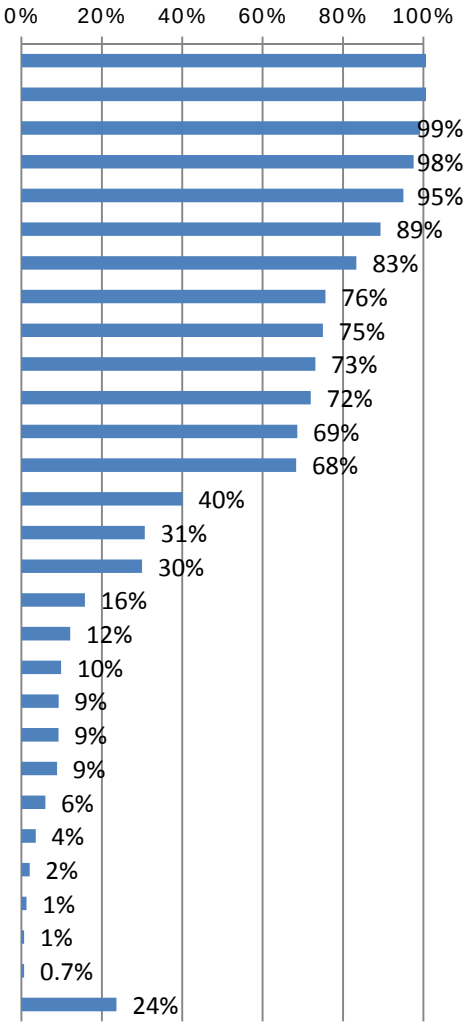
Targeting training activities at judges who may be faced with a private action related to EU competition law is much more difficult than at judges dealing with public enforcement, however, because in most Member States (Austria, Belgium, Croatia, Cyprus, Estonia, Finland, Greece, Hungary, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Romania, Spain, Sweden and the UK) such actions are treated in the same way as other commercial disputes. Exceptions to this situation include:

- **Formal specialisation:** in France, Germany, Lithuania, Slovakia and Slovenia, a limited number of (usually but not always higher-instance) courts is specifically assigned to deal with such actions;
- **Parallel competence:** in Denmark and the UK, the court responsible for public-law control of NCA decisions also has jurisdiction to hear private actions, though such competence is not exclusive and actions may also be brought in the civil courts;
- **Commercial courts:** in Belgium, Croatia, Italy and Spain, the existence of partially specialised commercial courts serves to focus private actions on a smaller number of courts and judges;
- **Informal specialisation:** in Denmark and Sweden, despite the fact that any civil court in a given country may be competent to hear a competition-related private action, such private actions are generally brought before a single court[47].

[46] *This number excludes the 1 393 judges in Tribunals in Romania who would rule at final instance on appeals concerning damages claims of less than Lei 200,000 (c. €45,159) from the Courts of First Instance.*
[47] *Legislation pending before Parliament in Sweden would, if adopted, formalise this situation and give a single court exclusive competence for such actions.*

Fig. 3.3. Number of judges who may have to deal with competition-related private actions (A/B) in absolute terms and as a proportion of the national judicial population[48]

Member State	No. of judges	Proportion of the national judicial population
IE	165	
LV	495	
DK	369	99%
HU	2700	98%
RO	4096	95%
CY	92	89%
AT	1289	83%
GR	1947	76%
EE	171	75%
SW	821	73%
FI	706	72%
PT	1379	69%
BE	1092	68%
LU	85	40%
BG	687	31%
MT	12	30%
UK	359	16%
CZ	371	12%
PL	997	10%
HR	179	9%
ES	476	9%
LT	68	9%
IT	378	6%
NL	86	4%
SI	20	2%
DE	252	1%
SK	9	1%
FR	48	0.7%
All EU	19,349	24%



Source: CEPEJ, ERA

Even when all civil courts are technically competent, the financial thresholds foreseen in civil procedure in a number of Member States result in most such cases being heard at first instance in higher courts (e.g. Austria, Greece, Hungary, Ireland, Poland, Romania). In Bulgaria the Civil Code provides for all competition-related actions to be heard at first instance by the otherwise second-instance District Courts. In France, Italy and Poland, jurisdiction for collective actions is limited to a smaller number of courts. Despite all these restrictions, the number of judges who could potentially be

[48] *The table compares the number of judges in the competent courts in each Member State (as calculated in the mapping exercise conducted for this study, including either (A) those who may potentially deal with a relevant case or (B) those who are specifically allocated to do so) with the total judicial population of each Member State (as calculated by the Council of Europe for its biannual CEPEJ study). The two numbers are not directly comparable, however, so the percentages should be considered as indicative rather than exact: on the one hand, the CEPEJ data was gathered in 2012 and the data for this study in 2015; on the other, CEPEJ refers to "full-time equivalents" whereas this study refers to individual judges.*

faced with a private action relating to EU competition law nevertheless remains significantly higher than the number dealing with public enforcement.

While the number of judges potentially dealing with private actions is relatively high, the likelihood of these judges having actually to do so is conversely low. Even among the specialised judges dealing with private actions who responded to the survey, their competition-related caseload was lower than that of judges dealing with public enforcement. Overall, judges dealing with private actions are much less likely to be specialised in competition law and, according to the survey, even the specialised ones are less likely to have received training in EU competition law or to attend conferences on the subject. It is worth noting that, in contrast to the judges dealing with public enforcement, the most frequently cited provider of training in competition law for this target group is national judicial training institutions. One possible reason for this is that, in the survey, judges dealing with private actions on average reported lower English-language skills than those dealing with public enforcement.

Reaching this target group therefore constitutes one of the main challenges for any training programme in this field.

Table 3.5. Courts competent for the private enforcement of EU competition law

KEY

Number of judges[49]:

A: Number of judges who may potentially have to deal with a competition law case.

B: Number of judges who are specifically allocated to deal with competition law cases.

Grounds of appeal:

F: Facts and law.

L: Points of law only.

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Austria	116 District Courts[50] *Bezirksgerichte*	694		F	18 Regional Courts *Landesgerichte*	218		L	Supreme Court (Civil Panels) *Oberster Gerichtshof*	41	
	18 Regional Courts[51] *Landesgerichte*	228		F	4 Higher Regional Courts *Oberlandesgerichte*	108					

[49] *See Section 2.1. above for more details on the distinction between "A" and "B" numbers.*
[50] *Austria: Claims below €15,000.*
[51] *Austria: Claims above €15,000.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Belgium	9 Commercial Courts[52] *Tribunaux de commerce/ Rechtbanken van koophandel*	139		F	Courts of Appeal (Civil Chambers) *Cours d'appel/Hoven van beroep*	c.30		L	Court of Cassation (First Chamber) *Cour de cassation/Hof van Cassatie*	30	
	13 Courts of First Instance (Civil Sections)[53] *Tribunaux de première instance/ Rechtbanken van eerste aanleg*	893									
Bulgaria	28 District Courts *Окръжни съдилища*	501		F	5 Courts of Appeal *Апелативни съдилища*	163		L	Supreme Court of Cassation (Commercial College) *Върховен касационен съд на Република България*	23	
Croatia	8 Regional Commercial Courts *Trgovački sudovi*	128		F	High Commercial Court *Visoki Trgovački Ssud*	28			Supreme Court (Civil Division)[54] *Vrhovni sud Republike Hrvatske*	23	
Cyprus	6 District Courts	79		n/a				L	Supreme Court	13	
Czech Republic	8 Regional Courts (Commercial Sections)[55] *Krajské soudy – obchodní úseky*	243		F	2 High Courts (Commercial Sections) *Vrchní soudy*	62		L	Supreme Court *Nejvyšší soud České republiky*	66	

[52] *Belgium: Competent for actions between commercial actors and between other plaintiffs and commercial actors, unless plaintiff chooses to bring action before Court of First Instance.*
[53] *Belgium: Competent if plaintiff chooses to bring action before Court of First Instance.*
[54] *Croatia: In principle, the High Commercial Court is the final instance. In exceptional circumstances, an extraordinary "revision" procedure before the Supreme Court is possible.*
[55] *Czech Republic: Special first instance competence at Regional Court level.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Denmark	Maritime and Commercial High Court (Civil Division)[56] *Sø- og Handelsretten*		5	n/a				F	Supreme Court *Højesteret*	18	
	24 District Courts *Byretterne*	252		F	2 High Courts *Vestre/Østre Landsret*	94			Supreme Court[57] *Højesteret*		
	2 High Courts[58] *Vestre/Østre Landsret*	94		n/a					Supreme Court *Højesteret*		
Estonia	4 County Courts *Harju, Viru, Pärnu, Tartu Maakohus*	144		F	2 Circuit Courts (Civil Sections) *Ringkonnakohus*	20		L	Supreme Court (Civil Chamber) *Riigikohus*	7	
Finland	27 District Courts *Käräjäoikeudet*	508		F	5 Courts of Appeal *Hovioikeus*	179		F	Supreme Court *Korkein Oikeus*	19	

[56] *Denmark: In most cases, plaintiffs choose the Maritime and Commercial High Court as first-instance court.*
[57] *Denmark: An appeal requires permission from the Appeal Permission Board and is only granted to leading cases of general interest.*
[58] *Denmark: Exceptionally, the High Courts can be seized as court of first instance in so-called "leading cases".*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
France[59]	8 Commercial Courts[60] *Tribunaux de Commerce* 8 Tribunals of Grand Instance[61] *Tribunaux de Grande Instance*		24	F	Court of Appeal of Paris (Commercial Chambers 5-3, 5-4, 5-5) *Cour d'Appel de Paris*		9	L	Court of Cassation (Commercial Chamber) *Cour de Cassation*		15
Germany	24 Regional Courts[62] *Landgerichte*		139	F	18 Higher Regional Courts (Antitrust Division) *Oberlandesgerichte – Kartellsenat*		105	L	Federal Court of Justice (Antitrust Division) *Bundesgerichtshof – Kartellsenat*		8
Greece	District Civil Courts[63] *Ειρηνοδικεία* Civil Courts of First Instance *Πρωτοδικεία*	716 732		F	13 Courts of Appeal (Civil Chambers) *Εφετεία*	440		L	Supreme Court (Civil Chambers) *Άρειος Πάγος*	59	

[59] *France: Concentration of court competence throughout the procedure: only 8 commercial courts or courts of grand instance at first instance and only Paris Court of Appeal at second instance. It should be noted that only the administrative courts have jurisdiction in private litigation cases relating to anti-competitive practices deriving from public procurement agreements but this is beyond the scope of this study. For more details, see the country profile in Annex 1.1.*

[60] *France: Competent for actions between commercial actors and between other plaintiffs and commercial actors, unless plaintiff chooses to bring action before Tribunal of Grand Instance.*

[61] *France: Competent if plaintiff chooses to bring action before Tribunal of Grand Instance.*

[62] *Germany: Concentrated competence at first and second instance determined by State law.*

[63] *Greece: District Civil Courts are competent if the value of the case does not exceed €20,000.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Hungary	111 District Courts[64] *Járásbíróságok*	1513		F	20 Regional Courts *Törvényszékek*	1039		L	Supreme Court (Civil Department) *Kúria*		5
	20 Regional Courts *Törvényszékek*	1039			5 Regional Courts of Appeal *Ítélőtáblák*	143					
Ireland	District Court[65]	64		n/a				F	Circuit Court	44	
	Circuit Court[66]	44		F	High Court	37		L	Supreme Court	10	
	High Court[67]	37			Court of Appeal	10					
Italy	22 Courts for Enterprises[68] *Tribunali delle Imprese*		115	F	Courts of Appeal (Chambers for Enterprises) *Corte d'Appello*		117	L	Supreme Court of Cassation (Civil Area) *Corte Suprema di Cassazione*	146	
Latvia	34 District Courts *Rajonu vai pilsētu tiesas*	360		F	5 Regional Courts *Apgabaltiesas*	118		L	Supreme Court (Civil Department) *Augstākā tiesa*	17	

[64] *Hungary: Private law cases up to HUF 30,000,000 (c. €100,000) are heard by the District Courts.*
[65] *Ireland: Actions up to €15,000: little or no practical relevance because of low threshold.*
[66] *Ireland: Actions up to €75,000.*
[67] *Ireland: Actions for more than €75,000.*
[68] *Italy: Specialised sections of general courts. Only 11 courts competent for collective actions.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Lithuania	Regional Court of Vilnius (Civil Division)[69] *Vilniaus apygardos teismas*		31	F	Court of Appeal of Lithuania (Civil Division) *Lietuvos apeliacnis teismas*	16		L	Supreme Court of Lithuania (Civil Division) *Lietuvos Aukščiausiasis Teismas*	21	
Luxem-bourg	3 Justices of the Peace or 2 District Courts (Commercial Chambers)[70] *Justices de Paix* ; Tribunaux d'arrondissement*	33 12		F	Court of Appeal *Cour d'Appel*	35		L	Court of Cassation *Cour de Cassation*	5	
Malta	Civil Court First Hall *Prim' Awla tal-Qorti Čivili*	7		n/a				L	Court of Appeal (Civil Jurisdiction) *Qorti Ta' l-Appell*	5	
Nether-lands	11 District Courts (Civil Teams) *Rechtbanken*		44	F	4 Courts of Appeal *Gerechtshoven*		32	L	Supreme Court (First Chamber) *Hoge Raad der Nederlanden*	10	

[69] *Lithuania: Exclusive competence.*
[70] *Luxembourg: Justices of the Peace hear cases up to a value of €10,000, cases in excess going to the District Courts.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Poland	321 District Courts (Commercial Divisions)[71] *Sąd rejonowy*	501		F	45 Regional Courts (Commercial Divisions) *Sąd Okręgowy*	237		L	Supreme Court (Civil Chamber)[72] *Sąd Najwyższy*	28	
	45 Regional Courts (Commercial Divisions)[73] *Sąd Okręgowy**	237			11 Courts of Appeal (Civil Divisions) *Sąd Apelacyjny*	231					
Portugal	23 Courts of First Instance *Tribunais Judiciais de 1a Instância*	1200		F	5 Courts of Appeal *Tribunais de Relação*	145		L	Supreme Court of Justice[74] *Supremo Tribunal de Justiça*	34	
Romania	188 Courts of First Instance[75] *Judecătorii*	1905		n/a				F	41 Tribunals *Tribunale*	1393	
	41 Tribunals[76] *Tribunale*	1393		F	Courts of Appeal *Curtea de Apel*	748		L	High Court of Cassation and Justice (Civil Sections)[77] *Inalta Curte de Casație și Justiție*	50	

[71] *Poland: Actions with a value up to PLN 75,000 (€18,000).*
[72] *Poland: Only if value of the claim is at least PLN 50,000 (€12,000).*
[73] *Poland: Actions with a value above PLN 75,000 and all collective actions.*
[74] *Portugal: Appeals to the Supreme Court are only admissible if value of claim above €30,000.*
[75] *Romania: Where the damages claimed amount to up to Lei 200,000 (€45,159), the Courts of First Instance have jurisdiction at first instance.*
[76] *Romania: Where the damages claimed amount to more than Lei 200,000 (€45,159), the Tribunals have jurisdiction at first instance.*
[77] *Romania: Only if the damages claimed amount to more than Lei 500,000 (€112,897) may the decision of the Court of Appeal be appealed to the High Court of Cassation and Justice.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
Slovakia	District Court of Bratislava II[78] *Okresný súd Bratislava II*		3	F	Regional Court of Bratislava *Krajský súd v Bratislave*		3	L	Supreme Court *Najvyšší súd Slovenskej republiky*		3
Slovenia	District Court of Ljubljana (Commercial Section, Competition Group)[79] *Okrožna sodišče v Ljubljani*		3	F	Higher Court of Ljubljana (Comm. Section, Comp. Group) *Višje sodišče v Ljubljani*		4	L	Supreme Court *Vrhovno sodišče*		13
Spain	64 Commercial Courts[80] *Juzgados de lo Mercantil*		64	F	50 Provincial Courts (Civil Sections) *Audiencias Provinciales*	c. 400		L	Supreme Court (Civil Section) *Tribunal Supremo*		12
Sweden	48 District Courts[81] *Tingsrätter*	588		F	6 Courts of Appeal *Hovrätter*	217		F	Supreme Court[82] *Högsta Domstolen*	16	

[78] *Slovakia: Exclusive competence.*
[79] *Slovenia: Exclusive competence.*
[80] *Spain: Commercial Courts are specialised civil courts set up in every region with an exclusive competence to hear private actions in competition cases.*
[81] *Sweden: Although all District Courts are competent, cases are most frequently filed with Stockholm City Court which has a country-wide competence.*
[82] *Sweden: Final appeal to Supreme Court only if leave is granted.*

	First instance			Intermediate instance(s) if applicable				Final instance			
	Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
		A	B			A	B			A	B
United Kingdom	Competition Appeal Tribunal[83]		31	L	*England & Wales:* Court of Appeal E&W	43		L	UK Supreme Court[84]	12	
					Scotland: Court of Session (Inner House)	12					
					Northern Ireland: Court of Appeal NI	4					
	England & Wales: High Court (Chancery or Commercial Court)	33		L	Court of Appeal E&W	43					
	Scotland: Sheriff Courts[85] or Court of Session (Outer House)	c. 200 22		L	Sheriff Appeal Court (from 2016) Court of Session (Inner House)	12					
	Northern Ireland: High Court	14		L	Court of Appeal NI	4					

[83] *UK: Second-instance appeals only if permission is granted by CAT or Court of Appeal.*
[84] *UK: Supreme Court appeal only if the court decides to take it.*
[85] *UK: For claims up to £100,000.*

3.5. Enforcement of the EU rules on State aid

Table 3.6. *Source: ERA*	First instance	Intermediate instance (if applicable)	Final instance
A: Number of judges who may potentially have to deal with a State aid law case	16 192	5 058	1 258
B: Number of judges specifically allocated to deal with State aid cases	71	251	68

The still nascent development of litigation at national level in the field of State aid means that identifying the competent courts is often a theoretical exercise: the information received by the research team from many Member States was "no such case has ever been brought before the courts". Based on the literature review in Annex 2.2., the research team identified three broad scenarios in which national courts may be faced with actions related to the enforcement of the EU rules on State aid:

- standstill actions to prevent the award of State aid before or after a decision by the European Commission;
- actions to recover illegally awarded State aid;
- private actions resulting from the illegal award of State aid.

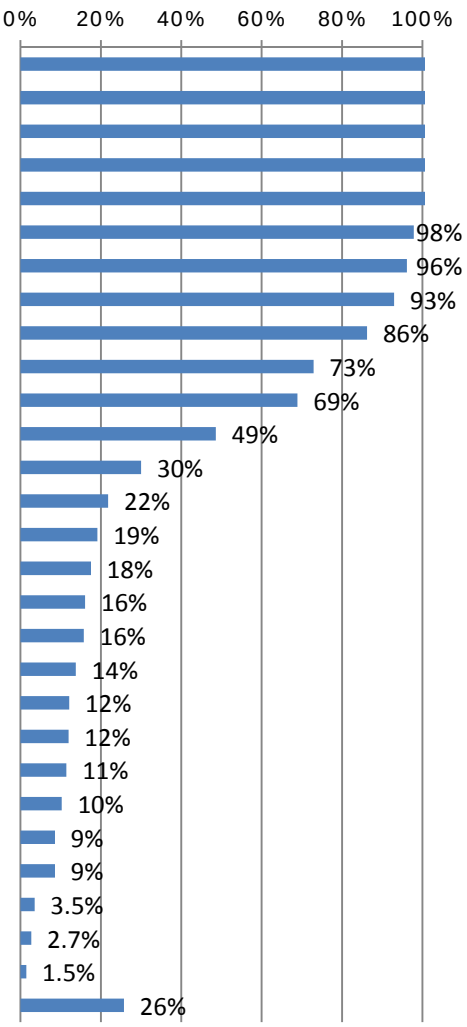
Issues related to State aid may arise in a wide variety of cases (administrative decisions, public procurement, subsidies, tax etc.) and the handling of them is rarely if ever channelled to specific courts in the same way as it often is for competition law. No Member State has a single dedicated court for handling such cases. Taking into account the scenarios described above, a clear competence for handling State aid cases can be established with regard to:

- **Administrative courts:** in jurisdictions with a clear separation between the administrative and ordinary courts, the former are generally responsible for standstill or recovery actions, as indeed for any action against a State body;
- **Civil courts:** private actions for damages against a beneficiary of State aid, where such actions are allowed, are usually heard in the civil courts; the civil courts may also have competence when, for example, State aid has been granted using a civil law instrument such as a sale of land, but this is not always as clear-cut as in the case of actions for damages against beneficiaries.

While the number of judges who could potentially deal with State aid cases is relatively large, the lack of cases in this field means that the number who have actually done so is relatively small. Among respondents to the survey, they tend to come from the administrative courts and to overlap to a significant degree with those dealing with the judicial review of NCA decisions. They report similar levels of access to training and language skills. It is important to note, however, that – with the exception of Romania – none of the restrictions leading to a reduction of the number of courts responsible for competition law – whether in terms of judicial review of NCA decisions or of private actions – applies to State aid cases, so the number of judges potentially concerned is larger.

Fig. 3.4. Number of judges who may have to deal with State aid cases (A/B) in absolute terms and as a proportion of the national judicial population[86]

Member State	No. of judges
LV	569
IE	165
GR	2725
SW	1177
HU	2787
DK	364
CY	99
FI	912
AT	1334
SK	953
BE	1101
LU	103
MT	12
ES	1124
DE	3799
EE	40
BG	360
SI	153
UK	313
CZ	371
PL	1212
HR	221
PT	206
LT	66
FR	603
NL	85
IT	172
RO	64
EU total	21090



Source: CEPEJ, ERA

It arguably makes sense not to think of judges dealing with State aid cases as a single target group but as two separate target groups analogous in terms of profile with – but larger in terms of number than – those for competition law:

- a first group, focused mainly on the administrative courts and other judges dealing with actions against State bodies and with a similar profile to the judges dealing with judicial review,
- a second group of judges who could potentially deal with private actions and other cases in the civil courts.

[86] *The table compares the number of judges in the competent courts in each Member State (as calculated in the mapping exercise conducted for this study, including either (A) those who may potentially deal with a relevant case or (B) those who are specifically allocated to do so) with the total judicial population of each Member State (as calculated by the Council of Europe for its biannual CEPEJ study). The two numbers are not directly comparable, however, so the percentages should be considered as indicative rather than exact: on the one hand, the CEPEJ data was gathered in 2012 and the data for this study in 2015; on the other, CEPEJ refers to "full-time equivalents" whereas this study refers to individual judges.*

Table 3.7. Courts competent for State aid-related cases

KEY

Judicial order:
Ad: Administrative judiciary
Or: Ordinary judiciary

Number of judges[87]**:**
A: Number of judges who may potentially have to deal with a State aid case.
B: Number of judges who are specifically allocated to deal with State aid cases.

Grounds of appeal:
F: Facts and law.
L: Points of law only.

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges A	No. of judges B	Grounds	Court	No. of judges A	No. of judges B	Grounds	Court	No. of judges A	No. of judges B
Austria	Ad	9 Regional Administrative Courts[88] *Landesverwaltungsgerichte* Federal Administrative Court[89] *Bundesverwaltungsgericht*		40	n/a				L	Supreme Administrative Court *Verwaltungsgerichtshof*		5
	Or	116 District Courts[90] *Bezirksgerichte*	694		F	18 Regional Courts *Landesgerichte*	218		L	Supreme Court (Civil Panels) *Oberster Gerichtshof*	41	
		18 Regional Courts[91] *Landesgerichte*	228		F	4 Higher Regional Courts *Oberlandesgerichte*	108					

[87] *See Section 2.1. above for more details on the distinction between "A" and "B" numbers.*
[88] *Austria: For cases concerning decisions by regional State bodies.*
[89] *Austria: For cases concerning decisions by federal State bodies.*
[90] *Austria: For claims below €15,000.*
[91] *Austria: For claims above €15,000.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Belgium	Ad	n/a			n/a				Council of State (Administrative Litigation Section)[92] *Conseil d'Etat/Raad van State*			9
	Or	9 Commercial Courts[93] *Tribunaux de commerce/ Rechtbanken van koophandel*	139		F	5 Courts of Appeal (Civil Chambers) *Cours d'appel/Hoven van beroep*	c.30		L	Court of Cassation (First Chamber) *Cour de cassation/Hof van Cassatie*	30	
		13 Courts of First Instance (Civil Sections)[94] *Tribunaux de première instance/ Rechtbanken van eerste aanleg*	893									
Bulgaria		28 Administrative Courts *Административни съдилища*	274		n/a				L	Supreme Administrative Court *Върховен административен съд*	86	
Croatia	Ad[95]	4 Regional Administrative Courts *Upravni sudovi*	41		n/a				F	High Administrative Court *Visoki upravni sud Republike Hrvatske*	24	
	Or	8 Regional Commercial Courts *Trgovački sudovi*	128		n/a				F	High Commercial Court *Visoki trgovački sud Republike Hrvatske*	28	

[92] *Belgium: Single instance procedure before the Council of State.*
[93] *Belgium: Competence for actions between commercial actors and between other plaintiffs and commercial actors, unless plaintiff chooses to bring action before Court of First Instance.*
[94] *Belgium: Competence if plaintiff chooses to bring action before Court of First Instance.*
[95] *Croatia: Action for annulment.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Cyprus	Ad	Administrative Court	7		n/a				L	Supreme Court	13	
	Or	6 District Courts	79									
Czech Republic		8 Regional Courts (Commercial Sections) *Krajské soudy – obchodní úseky*	243		F	2 High Courts *Vrchní soudy*	62		L	Supreme Court *Nejvyšší soud České republiky*	66	
Denmark		24 District Courts *Byretterne*	252		F	2 High Courts *Vestre/Østre Landsret*	94		F	Supreme Court[96] *Højesteret*	18	
		2 High Courts[97] *Vestre/Østre Landsret*	94		n/a							
Estonia		2 Administrative Courts *Tallinna/Tartu Halduskohus*	25		F	2 Circuit Courts (Administrative Sections) *Tallinna/Tartu Ringkonnakohus*		10	L	Supreme Court (Administrative Chamber) *Riigikohus*		5
Finland	Ad[98]	7 Administrative Courts	184		n/a				F	Supreme Administrative Court *Korkein hallinto-oikeus*	22	
	Or	27 District Courts *Käräjäoikeudet*	508		F	5 Courts of Appeal *Hovioikeus*	179		F	Supreme Court *Korkein oikeus*	19	

[96] *Denmark: An appeal requires permission from the Appeal Permission Board and is only granted to leading cases of general interest.*
[97] *Denmark: Exceptionally, the High Courts can be seized as court of first instance in so-called "leading cases".*
[98] *Finland: Competence for standstill and other actions addressed to State authorities.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
France	Ad	42 Administrative Tribunals *Tribunaux Administratifs*		c. 20	F	8 Administrative Courts of Appeal *Cours Administratives d'Appel*		c.6	L	Council of State *Conseil d'Etat*		12
	Or	136 Commercial Courts[99] *Tribunaux de Commerce*	136		F	36 Courts of Appeal (Commercial Chambers) *Cours d'Appel*	250		L	Court of Cassation (Commercial Chamber) *Cour de Cassation*		15
		164 Tribunals of Grand Instance *Tribunaux de Grande Instance*	164									
Germany	Ad	52 Administrative Courts[100] *Verwaltungsgerichte*	1525		F	16 Higher Regional Administrative Courts *OVG/VGH*	398		L	Federal Administrative Court (10th Division) *Bundesverwaltungsgericht*		6
		18 Tax Courts[101] *Finanzgerichte*	600		n/a				L	Federal Tax Court *Bundesfinanzhof*	60	
	Or[102]	115 Regional Courts *Landgerichte*	c. 990		F	24 Higher Regional Courts *Oberlandesgerichte*		c. 135	L	Federal Court of Justice *Bundesgerichtshof*	85	

[99] *France: Commercial Courts are competent for actions between commercial actors and between other plaintiffs and commercial actors, unless plaintiff chooses to bring action before Tribunal of Grand Instance. No specialisation, no concentration of competence.*
[100] *Germany: General competence for State aid cases against public authorities.*
[101] *Germany: Competence for cases of fiscal State aid.*
[102] *Germany: No concentration of competence at first and second instance in State aid cases (unlike for private enforcement of competition law).*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Greece	Ad	2 Administrative Courts of First Instance[103] *Διοικητικά πρωτοδικεία*	427		F	2 Administrative Courts of Appeal *Διοικητικό Εφετείο*	182		L	Council of State[104] *Συμβούλιο της Επικρατείας*	169	
	Or[105]	District Civil Courts[106] *Ειρηνοδικεία*	716		F	Courts of Appeal *Εφετεία*	440		L	Supreme Court (Civil Chambers) *Άρειος Πάγος*	59	
		Civil Courts of First Instance *Πρωτοδικεία*	732									
Hungary		111 District Courts *Járásbíróságok*	1513		F	20 Regional Courts *Törvényszékek*	1039		L	Supreme Court (Civil Department) *Kúria*	92	
		20 Regional Courts *Törvényszékek*	1039			5 Regional Courts of Appeal *Ítélőtáblák*	143					

[103] *Greece: Competence of administrative courts if State aid granted by administrative contract or as fiscal State aid.*
[104] *Greece: First and final instance Council if State aid granted by an enforceable administrative act such as a ministerial decision.*
[105] *Greece: Competence of civil courts if State aid granted by private law entity.*
[106] *Greece: District Civil Courts are competent if the value of the case does not exceed €20,000.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Ireland		District Court[107]	64		n/a				F	Circuit Court	44	
		Circuit Court[108]	44		F	High Court	37		L	Supreme Court	10	
		High Court[109]	37		F	Court of Appeal	10					
Italy		29 Administrative Courts *Tribunali Amministrativi Regionali*	100		n/a				F	Council of State *Consiglio di Stato*	c. 72	
Latvia	Ad[110]	District Administrative Court *Administratīvā rajona tiesa*	44		F	Regional Administrative Court *Administratīvā apgabaltiesa*	21		L	Supreme Court (Administrative Department) *Augstākā tiesa*	9	
	Or	34 District Courts *Rajonu vai pilsētu tiesas*	360		F	5 Regional Courts *Apgabaltiesas*	118		L	Supreme Court (Civil Department) *Augstākā tiesa*	17	
Lithuania		5 Regional Administrative Courts *Apygardos administracinis teismas*	48		n/a				F	Supreme Administrative Court *Lietuvos vyriausiasis administracinis teismas*	18	

[107] *Ireland: Actions up to €15,000: Competence with little or no practical relevance because of low threshold.*
[108] *Ireland: Actions up to €75,000.*
[109] *Ireland: Actions for more than €75,000.*
[110] *Latvia: Administrative courts are competent if State aid granted by an administrative act; civil courts if granted on basis of agreement.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Luxem-bourg	Ad [111]	Administrative Tribunal *Tribunal Administratif*	13		n/a				F	Administrative Court *Cour Administrative*	5	
	Or [112]	Justices of the Peace *Justices de Paix*	33		F	Court of Appeal *Cour d'Appel*	35		L	Court of Cassation *Cour de Cassation*	5	
		District Courts (Commercial Chambers) *Tribunaux d'arrondissement*	12									
Malta		Civil Court First Hall *Prim' Awla tal-Qorti Čivili*	7		n/a				L	Court of Appeal (Civil Jurisdiction) *Qorti Ta' l-Appell*	5	
Nether-lands		11 District Courts (Civil or Administrative Sectors) *Rechtbanken*		11	F	4 Courts of Appeal[113] *Gerechtshoven*		32	L	Supreme Court (First or Third Chambers) *Hoge Raad der Nederlanden*	23	
					n/a				F	Trade and Industry Appeals Tribunal[114] *College van Beroep voor het bedrijfsleven*	19	

[111] *Luxembourg: General competence in State aid cases; except for awarding damages.*
[112] *Luxembourg: Exclusive competence to award damages in State aid cases. Tribunals of the Peace hear cases up to a value of €10,000, cases in excess going to the District Courts.*
[113] *Netherlands: For civil and tax-related cases.*
[114] *Netherlands: In socioeconomic administrative law cases other than tax, the Trade & Industry Appeals Tribunal is second and final instance.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Poland	Ad	16 Regional Administrative Courts *Wojewódzkie Sądy Administracyjne*	190		n/a				L	Supreme Administrative Court *Naczelny Sąd Administracyjne*	25	
	Or	321 District Courts (Commercial Divisions)[115] *Sąd rejonowy*	501		F	45 Regional Courts (Comm. Divisions) *Sąd Okręgowy*	237		L	Supreme Court (Civil Chamber)[116] *Sąd Najwyższy*	28	
		45 Regional Courts (Commercial Divisions)[117] *Sąd Okręgowy*	237		F	11 Courts of Appeal (Civil Divisions) *Sąd Apelacyjny*	231		L			
Portugal		17 Administrative and Tax Courts *Tribunais Administrativos e Fiscais*	148		F	2 Central Administrative Courts *Tribunais Centrais Administrativos*	36		L	Supreme Administrative Court *Supremo Tribunal Administrativo*	22	
Romania		Court of Appeal of Bucharest (Administrative Section) *Curtea de Apel București*	40		n/a				L	High Court of Cassation and Justice (Administrative and Fiscal Section) *Inalta Curte de Casație și Justiție*	24	
Slovakia		54 District Courts *Okresný súdy*	869		F	8 Regional Courts (Commercial Sec.) *Krajský súdy*		68	L	Supreme Court (Commercial Section) *Najvyšší súd*		16

[115] *Poland: Actions with a value up to PLN 75,000 (c. €18,000).*
[116] *Poland: Only if value of the claim is at least PLN 50,000 (c. €12,000).*
[117] *Poland: Actions with a value above PLN 75,000 and all collective actions.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Slovenia	Ad [118]	Administrative Court *Upravno sodišče*	27		n/a				L	Supreme Court *Vrhovno sodišče*	16	
	Or [119]	11 District Courts (Commercial Sections) *Okrožna sodišče*	85		F	4 Higher Courts (Commercial Sections) *Višje sodišče*	25					
Spain	Ad	Administrative Courts[120] *Juzgados de lo Contencioso-administrativo*	241		F	Regional High Courts (Admin.) *Tribunales Superiores de Justicia*	328		L	Supreme Court (Administrative Section)[121] *Tribunal Supremo*	33	
		Regional High Courts (Administrative Sections)[122] *Trib. Superiores de Justicia*	328		n/a							
		National High Court (Central Admin. Courts of First Instance)[123] *Audiencia Nacional de España (Juzgados centrales de lo contencioso-administrativo)*	12		F	National High Court (Admin. Section) *Audiencia Nacional de España (Sala de lo Contencioso-administrativo)*	34					

[118] *Slovenia: Actions concerning a State authority.*
[119] *Slovenia: Actions between private parties.*
[120] *Spain: Competence for cases concerning actions of local authorities and decentralised administrative bodies.*
[121] *Spain: The Supreme Court is first and final instance for cases involving decisions of the Council of Ministers.*
[122] *Spain: Competence for cases concerning actions of the 17 Autonomous Communities.*
[123] *Spain: Competence for cases concerning actions of the central government and public administration.*

	Judicial order	First instance			Intermediate instance(s) if applicable				Final instance			
		Court	No. of judges		Grounds	Court	No. of judges		Grounds	Court	No. of judges	
			A	B			A	B			A	B
Spain (cont.)	Or	Commercial Courts[124] *Juzgados de lo Mercantil*	64		F	Provincial Courts (Civil Sections) *Audiencias Provinciales*	400		L	Supreme Court (Civil Section) *Tribunal Supremo*	12	
Sweden	Ad	12 Administrative Courts *Förvaltningsrätter*	215		L	4 Administrative Courts of Appeal *Kammarrätter*	127		L	Supreme Administrative Court *Högsta förvaltningsdomstolen*	14	
	Or	48 District Courts *Tingsrätter*	588		F	6 Courts of Appeal *Hovrätter*	217		F	Supreme Court *Högsta Domstolen*	16	
United Kingdom		*England & Wales*: High Court (Chancery Division)	18		L	Court of Appeal E&W	43		L	UK Supreme Court	12	
		Scotland: Sheriff Courts or Court of Session (Outer House)	c.200 22		L	Sheriff Appeal Court (from 2016) or Court of Session (Inner House)	12					
		Northern Ireland: High Court	14		L	Court of Appeal NI	4					

[124] *Spain: Actions between private parties.*

3.6. Specialisation of courts and judges: benefits and challenges

Narrowing the target group

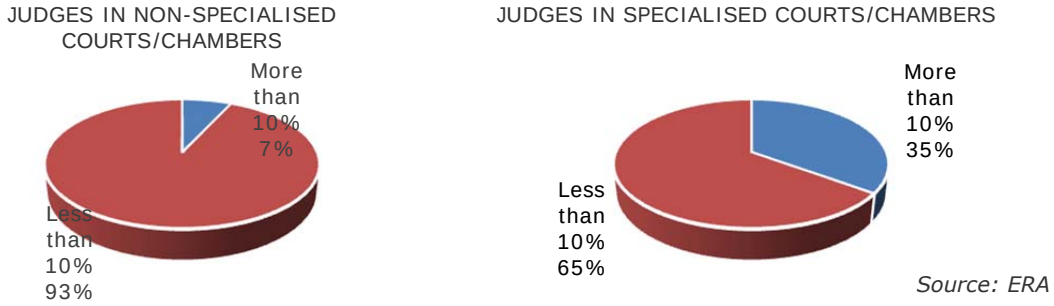
Specialisation is an important factor in narrowing the number of courts and judges who apply EU competition law at national level. It may be formal specialisation (such as the thematic specialisation of certain courts for judicial review of NCA decisions or the channelling of private actions in the field to selected courts) or *de facto* specialisation (such as the fact that a specific court is competent by geographical coincidence for reviewing NCA decisions or that private actions tend to cluster in a particular court). It may be the court itself that is specialised, or a particular chamber or division, or even an individual judge. There is therefore no universal definition of specialisation.

Key to training needs

Respondents to the survey were asked whether their court, division or chamber was "exclusively", "partially" or "not specialised" in competition law. 49% said that they were exclusively or partially specialised and 51% said that they were not specialised. Over 80% of judges dealing with public enforcement described themselves as exclusively or partially specialised, as did a high number of those with experience of private enforcement. Given that, in many jurisdictions, there are no specialised courts for private actions, this suggests a correlation between the number of such actions and the fact that specialised courts exist. The largest proportion of non-specialised judges was among those dealing with State aid cases (40%).

Judges in more specialised courts or chambers unsurprisingly have a higher competition law-related caseload than non-specialised judges, even if this remains small compared to their caseload in other areas of law:

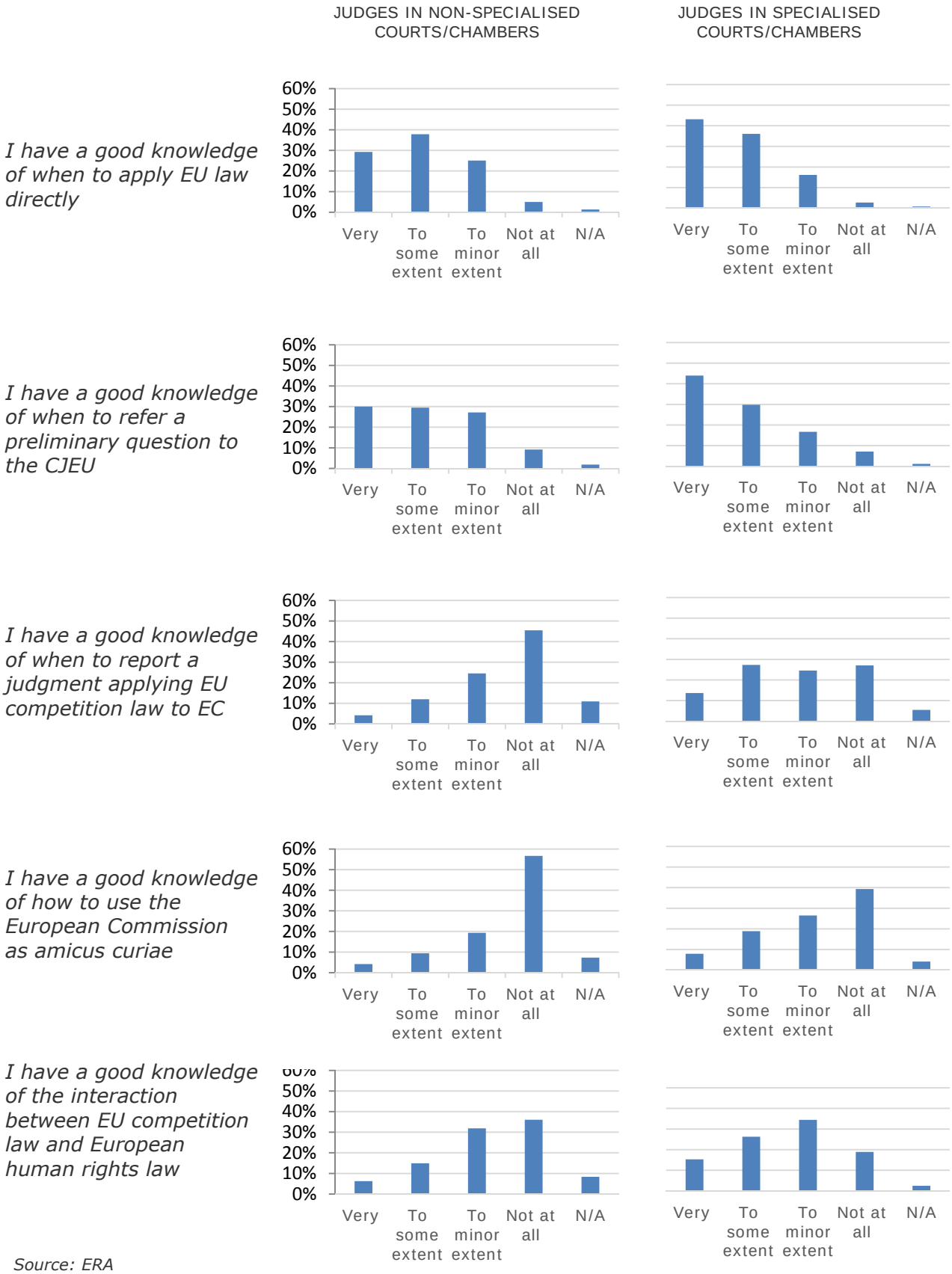
Fig. 3.5. In the course of a year how much of your caseload involves EU competition law?



Source: ERA

There is a strong connection between the degree of specialisation of courts and chambers and the level of knowledge of their judges. Based on eight multiple-choice questions, respondents to the survey were asked to self-assess their knowledge of EU law and EU competition law. Judges who described their court or chamber as partly or exclusively specialised in EU competition law reported higher levels of knowledge both in terms of EU law in general and of EU competition law in particular. 79% of specialised judges said they knew very well or to some extent when to apply EU law directly, whereas only 68% of non-specialised judges expressed the same degree of confidence. When it comes to the mechanism foreseen in Article 15 Regulation 1/2003 for reporting national judgments involving EU competition law to the European Commission, 41% of specialised judges said they knew very well or to some extent when to use it, but only 16% of non-specialised judges said the same.

Fig. 3.6. Survey of judges: What is your knowledge of the European law system?



Source: ERA

Participation rates in previous training on competition law, the freshness of the training (how long ago it took place) and other factors are influenced much more by the specialisation of the court than, for example, the type of action (public/private/State aid) with which it deals. Demand for more training is also highest among specialised judges, especially those dealing with public enforcement. The limited number of places available on training programmes is by far the most frequent reason cited among specialised judges for not having participated in such a programme. Full survey results, broken down according to whether judges are specialised or not, the volume of their competition law caseload, as well as to whether they have experience of public enforcement, private enforcement or State aid, are contained in Annex 2.4.

Targeting training needs

Specialisation can therefore be considered an important factor in determining the training needs of judges dealing with EU competition law. As Fig 3.6. shows, judges in specialised courts or chambers tend to have a higher degree of knowledge to begin with and training programmes should be targeted accordingly. This is not to say that specialised judges have less training needs than non-specialised judges, just more specific ones[125]: 39% of specialised judges, for example, said that they had no knowledge at all of how to use the European Commission as *amicus curiae*. Distinguishing between specialised and non-specialised judges can help to identify and address specific training needs more efficiently.

This is not to say that the training of non-specialised judges should be neglected. The national competition authorities of Member States where both specialised and non-specialised judges may be involved in competition law cases, for example Sweden and Romania, emphasised that non-specialised judges required training too. Indeed the competition authority of Latvia, where there are no specialised competition law courts, reported that the lack of training and expertise of the general courts might deter the development of private damages claims.

Quality and efficiency

In the absence of any harmonising legislation in this regard, the principle of procedural autonomy leaves the organisation of justice and the designation of the courts competent to apply EU competition law to the Member States. While the purpose of this study is not to analyse the effects of different models of court organisation on the quality of justice and on the effectiveness of judicial protection of competition in the Single Market, its findings based on both the survey and the feedback received from focus groups and stakeholders suggest a direct correlation between the specialisation of courts and the qualification of judges involved. At least for the purposes of training, it can be stated that:

- judges of courts with a concentrated or exclusive competence accumulate more expertise and are more knowledgeable with regard to EU competition law for the simple reason that they face considerably more cases than their counterparts in courts of general competence;
- judges of these specialised courts require advanced training focused on specific questions of EU competition law and the related economics while their counterparts in courts of general competence will rarely reach a degree of expertise beyond the basics of EU competition law;

[125] *In its submission to the stakeholder consultation, the Bundeskartellamt recognised that there was also a need for specialised judges to be given training to keep up-to-date with new developments.*

- judges of specialised courts will continuously accumulate additional expertise on changing aspects of EU competition law while the level of expertise of their counterparts risks even to deteriorate if no new cases come in;
- judges of specialised courts will be motivated to follow the development of EU competition law and jurisprudence at EU level and in other Member States, while their counterparts can hardly afford this for the simple reason of other priorities;
- and finally, judges at specialised courts are less numerous than at courts of general competence and can be identified and addressed easily.

On the basis of these findings it can be concluded that the quality and efficiency of training in EU competition law can be better secured and improved with judges of specialised competition courts. It is for the Member States to decide on the organisation of their own judicial systems and for the EU legislator to decide whether it makes any recommendation in this regard, but one clear conclusion of this study is that, considering the public-policy character of EU competition law, a concentration of judicial competences would improve its effective implementation and application.

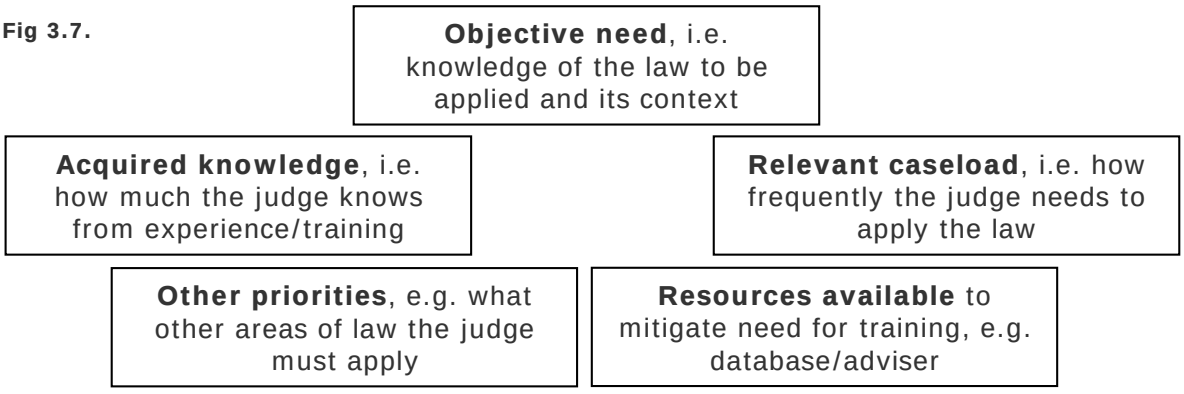
Turnover of judges

One concern for any training programme is the risk that judges who have been trained move on to another court, rendering the knowledge and skills acquired redundant. The specialisation of courts can mitigate this problem by narrowing the target group, thus making it clearer when the turnover of judges leads to a fresh need for training in the field of competition law. The conditions of appointment to specialised courts vary and can have a decisive effect, however. In Germany, for example, once assigned to the specialised Cartel Division of the Federal Court of Justice, such judges can remain in that division for the rest of their careers. In Italy, on the other hand, judges are allowed to sit in a given court for a maximum of ten years, meaning that the specialisation they acquire in that period will be lost when they are obliged to move on. In Portugal, the specialised court is established not in Lisbon but in the provincial city of Santarém, with no career incentives for judges to sit there, leading to recruitment problems and instability. Establishing specialised courts is not sufficient in itself to reap the benefits of specialisation in addressing training needs, but they must be accompanied by stable and long-term perspectives for the judges appointed to them.

3.7. Typology of training profiles

The "training need" of an individual judge in the field of EU competition law is influenced by at least the following five factors:

Fig 3.7.



Source: ERA

Ideally, the judge called to decide a case should be in full command of the applicable law, i.e. know the law and have the skills to interpret and apply it; and sufficiently understand the underlying socio-economic conditions and realities which the applicable law is intended to shape. The challenge in the application of European competition law is twofold: lawyers, and judges in particular, generally have little knowledge and understanding of economic processes, let alone of the specificities of horizontal and vertical competition which EU competition law is intended to protect, as this is rarely part of their academic studies or initial training[126]. Moreover, the details of European competition law and the role and responsibility of national judges as specified by Regulation 1/2003 and in future by the Damages Directive do not feature on a regular and systematic basis in the judicial training offer of national providers, as the mapping of national jurisdictions has revealed[127].

Despite or indeed because of these limitations, the objective need for the training of judges in EU competition law must be highlighted: legislation aiming at the protection of the general good or at ensuring the functioning of a social, economic or political system establishes rules of public policy, the implementation of which arguably justifies the allocation of greater judicial resources than the enforcement of rules with a solely local or personal impact. EU competition law is deemed a matter of public policy by the legislator[128] and should hence be ranked high in the definition of objective training needs of the judiciary called to implement it, as their judgments will have a significant impact on the general public.

This objective need constitutes, however, only one factor in determining the extent to which an individual judge needs training in EU competition law. The knowledge that a judge has acquired from previous experience or training depends highly on an individual judge, though such knowledge is likely to be greater in specialised courts (see Section 3.6 above)[129]. The other training priorities that a judge must address and the resources available to mitigate the need for training (e.g. an advisor or coordinator in court whom a judge can consult) vary from court to court and Member State to Member State, and it is difficult to generalise on a European level (see Section 3.10 below). The key factor, alongside objective need, in determining a judge's requirement for training in EU competition law is thus the relevance of this area for their professional work and in particular the likelihood of their being seised to decide a case involving EU competition law. Notwithstanding the ideal requirements for the knowledge and skills of a deciding judge described above, it is objectively impossible to train all "occasional" judges in general jurisdictions possibly called to decide a competition case to the same extent as a specialised judge at a court with exclusive jurisdiction. All judges must prepare adequately for those areas from which the bulk of their cases derives.

[126] *42% of specialised judges who responded to the survey said that EU competition law played no part in their academic legal studies and a further 39% said that it constituted less than 10% of their studies.*
[127] *See below Section 3.9. In most Member States there is no regular continuous training on EU competition law; where training opportunities exist, they are mostly one-off events.*
[128] *"Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) are a matter of public policy and should be applied effectively throughout the Union in order to ensure that competition in the internal market is not distorted.", Damages Directive, Rec. 1.*
[129] *In its submission to the stakeholder consultation, the UK Competition and Markets Authority emphasised the different nature of judicial appointments in England and Wales (where judges are usually recruited from the Bar) and regarded the specialist judges in the Competition Appeal Tribunal and the appellate courts as having a high level of expertise and knowledge in the area of competition law. The same view applied also to the judges in the CAT from a non-legal background where their specialist commercial experience stood them in good stead to handle complex competition law cases.*

To establish a typology of training profiles for judges (potentially) called to apply EU competition law in the three areas presented above (public enforcement, private enforcement and State aid), the following criteria may be considered:

- the level of jurisdiction (first/higher/supreme instance)
- the object of review (facts and law/law only)
- the degree of specialisation
- the category of jurisdiction (civil/administrative/criminal)
- the individual expertise of the judge (beginner/experienced judge)

Judges involved in public enforcement

Profile 1: Judicial review of NCA decisions – first-instance judges

These judges need to be in a position to conduct a complete review of the competition authority's decisions (i.e. both the law and the facts, including economic aspects). In a few jurisdictions, they are even competent to take the infringement decision itself (though this makes hardly any difference to the extent of the knowledge and expertise they need). With regard to their role in ensuring a coherent, nationwide (and, indirectly, EU-wide) enforcement of EU competition law as public-policy rules guaranteeing the proper functioning of the Single Market, they require the highest qualification.

That there is a relatively small number of these judges in each Member State – regardless of whether they are thematically specialised or concentrated simply by geographical coincidence – allows for a considerable degree of specialisation and an accumulation of expertise. Given that a thorough knowledge of EU competition law is a precondition for their work, the objective continuous training needs of these specialised and experienced judges ought to be limited to regular updates on new legislation and case law and to exchanges with colleagues from other Member States. Feedback from stakeholders such as lawyers in private practice suggests, however, that there is still a persistent need to prepare judges to deal with the increasingly economic aspects of applying EU competition rules.[130]

Due to this concentration and specialisation, advanced-level training programmes can be targeted fairly easily at the right judges, and English-language cross-border projects are likely to be more popular than among other target groups[131].

Profile 2: Judicial review of NCA decisions – higher-instance judges

In most Members States, only two instances are available for the review of NCA decisions and often the second instance examines points of law only. Requirements for their skills and qualification cannot be lower than at first-instance level. The fact that appeal judges may be restricted to reviewing points of law only should not have an effect on their training needs because, even if they will not re-examine the facts of the case and not hear any new evidence, they will still require the skills to assess and evaluate the underlying facts appropriately.

In Member States where specialisation also exists at higher-instance level, the number of judges concerned is again small and they will have developed a degree of specialisation and expertise even surpassing that of first-instance judges, with similar

[130] *See the responses to the consultation of national competition authorities and lawyers in private practice in Annex 2.6.*
[131] *See the findings on the language skills of different profiles of judges in Section 3.8 below.*

consequences on their objective training needs. In most Member States, however, higher-instance courts are not specialised *per se* and there are sometimes more appeal and Supreme Court judges potentially having to deal with a public enforcement case than first-instance judges, with a conversely lower likelihood that they will ever actually be faced with such cases. In general, these courts will also have to deal with the full range of civil or administrative appeals. For these judges, given their position in the review system, there seems to be a strong objective need for training on both the economics and the substance of EU competition law, even if subjectively these judges may consider competition law training a lower priority compared to other areas of their competence.

Finally it should be noted that in many Member States those higher-instance judges dealing with competition cases are often assigned to specialised divisions over long periods and thus highly specialised. These judges tend to engage actively in ongoing training activities and exchanges as teachers or as delegates. The permanent benefit of being involved in such activities means the remaining training needs of this group are probably rather limited.[132] The survey of judges reveals, however, that many judges dealing with EU competition law are unaware of the networking opportunities available at EU level, notably the Association of European Competition Law Judges, and greater efforts could be made to promote this and other fora among such judges.

Profile 3: Judges applying criminal sanctions for breaches of competition law

In the few Member States[133] where competition infringements are criminal offences, criminal judges may be faced with such cases but there is no specialisation and cases are rare[134]. For this reason, and given that criminal sanctions are only an auxiliary *ultima ratio* tool to enforce EU competition law, which will often follow the public-law decision of the national competition authority, less stringent requirements for the judge's expertise in EU competition law seem tolerable. Consequently, the objective training needs for criminal judges are lower than those of their colleagues reviewing NCA decisions even if the individual criminal judge concerned may have little knowledge of EU competition law.

It would therefore be difficult to target competition law training efficiently at criminal judges in these Member States. They would be better served by ensuring the availability of on-demand training resources such as e-learning tools and databases to help them as and when they need it.

Judges involved in private enforcement

Private enforcement of EU competition law is the second cornerstone of its implementation and similarly relevant for ensuring its public-policy effect.[135] This calls for a high standard of qualification of the judges concerned. On the other hand, judicial systems differ more widely in the organisation of private enforcement competences than in public enforcement.

Responses to the survey suggest that most judges with experience of stand-alone actions have not dealt with follow-on actions. There is, however, no reason to distinguish between these with regard to their training needs, as the same courts are

[132] *Cf. comment of Studienvereinigung Kartellrecht: "A small number of German judges participates in activities of the European Association of Competition Law Judges, but they are hardly those in need of training."*
[133] *Denmark, Estonia, France, Greece, Ireland, Romania, UK.*
[134] *See the country profiles in Annex 1.1 for details of how criminal sanctions apply in the Member States concerned.*
[135] *Cf. Damages Directive, Rec. 3.*

competent in both cases. The only plausible explanation for the apparent indication of a distinction in the survey might be a difference in litigation culture, as stand-alone actions seem to be more common in a few jurisdictions[136].

The far more obvious differentiation is to be made between Member States in which private actions are concentrated on more specialised courts, where the number of judges affected is comparatively low, and those in which such rules do not apply: whereas in France only 24 judges at first and nine at second instance are competent to hear private enforcement cases, more than 3,000 judges at first instance and 748 judges at Court of Appeal level could be in charge in Romania. Even if ideally every judge hearing a private enforcement case should have a sound understanding of Articles 101 and 102 TFEU and of the underlying economics, their training needs will vary according to their degree of specialisation and the frequency with which they face such a case.

Profile 4: Specialised judges dealing with private enforcement

In Member States[137] where jurisdiction for private actions is concentrated on a limited number of courts (at both first and higher instances), judicial training needs will again focus more on regular updates on legislation and case law, exchanges with colleagues from other Member States and specific matters such as the quantification of damages. In these jurisdictions, it will be possible to target training at judges with a considerably higher probability of having to deal with such cases. Overall, this group will be larger than that of judges reviewing public enforcement decisions and will always also have to deal with other civil or commercial cases, but at least they are clearly identifiable.

This target group would probably best be served by a programme that ensures that a common level of training is available to all judges across the jurisdictions concerned. It may also make more sense to provide training locally, in local languages, and with a clear connection to national procedural law.

Profile 5: Non-specialised judges dealing with private enforcement

In the rest of the Member States, civil court judges will only randomly have to decide a private enforcement case. Their training needs in EU competition law will be rather basic and further reduced by the fact that they might face the odd competition law case only once or twice in their professional career. It is not possible to target these judges efficiently. While they should certainly also have access to training programmes provided for specialised judges (above), they would be best served by ensuring the availability of on-demand training resources, databases etc. to help them as and when they need it, if possible in local languages.

Judges involved in State aid control

Profile 6: Judges dealing with State aid-related cases

While the effective implementation and control of State aid rules (Art. 107 TFEU) is the third cornerstone for ensuring undistorted competition in the Single Market and

[136] *German judges represented 26% of respondents with experience of stand-alone actions (as opposed to 16% of survey respondents overall).*

[137] *Competence for private actions involving EU competition law is reserved to specific courts in the Czech Republic, France, Germany, Italy, Lithuania, Slovakia, Slovenia and Spain. De facto specialisation occurs in other Member States but there is no formal exclusivity of competence. See Section 3.2 above and the individual country profiles in Annex 1.1 for more details.*

thus shares the public-policy character of EU competition rules, the judicial landscape is most dispersed in this area and in most Member States jurisdiction is divided between administrative and ordinary courts, depending on the type of State aid granted (by administrative act, private or public contract, tax benefits, etc.), the parties involved (private or public-law actors) or the type of action brought. With the exception of Romania, where the Bucharest Court of Appeal is the only court to hear State aid cases at first instance, in all other Member States such cases could pop up in virtually any civil, commercial or administrative court and the only rather limited extent to which a certain level of specialisation can be achieved is the designation of specific sections or divisions to deal with State aid litigation. The survey indicates that the number of judges who have dealt with a State aid case is relatively small. It is therefore impossible to provide a general definition of their training needs: the potentially wide range of their judgments concerning the admissibility of specific State aid measures would call for a high level of expertise and qualification, but the scarcity of such cases means that judges will inevitably focus their training on more pressing areas.

In countries where the administrative courts are separate or clearly distinguishable from the rest of the judiciary, such judges are more likely to have to deal with a State aid case and training can be targeted more efficiently at them. Even if there is some (limited) overlap with the judges in charge of public-law control of NCA decisions, there is little if any specialisation of courts, so the training needs cannot be expected to be as advanced or as important in relation to other training priorities. Depending on the prevalence of litigation in the country, this group might therefore be best served by a training programme aiming to provide a common standard level of knowledge, as for judges specialised in private enforcement; otherwise they should at least have access to on-demand training resources, databases etc. when needed, if possible again in local languages. A training programme focused on administrative judges will not, however, generally be sufficient to meet all judicial training needs in a given Member State, as State aid-related cases might also be brought before the civil courts.

For the remaining judges, it is not possible to target those who may be faced with State aid cases efficiently so again they would be better served by ensuring the availability of on-demand training resources, databases etc. to help them as and when they need it.

An alternative method to reduce the potential target group for training on State aid law would be to focus on appeal and supreme courts involved in State aid control. The higher the instance, the more resounding the public-policy argument is to call for a strong qualification of these judges to rule on EU competition and State aid cases. The number of appeal and supreme courts (and of divisions or judges potentially seised) is indeed smaller than that of potentially competent first-instance courts and the judges concerned can be more easily identified.

Introductory training for beginners

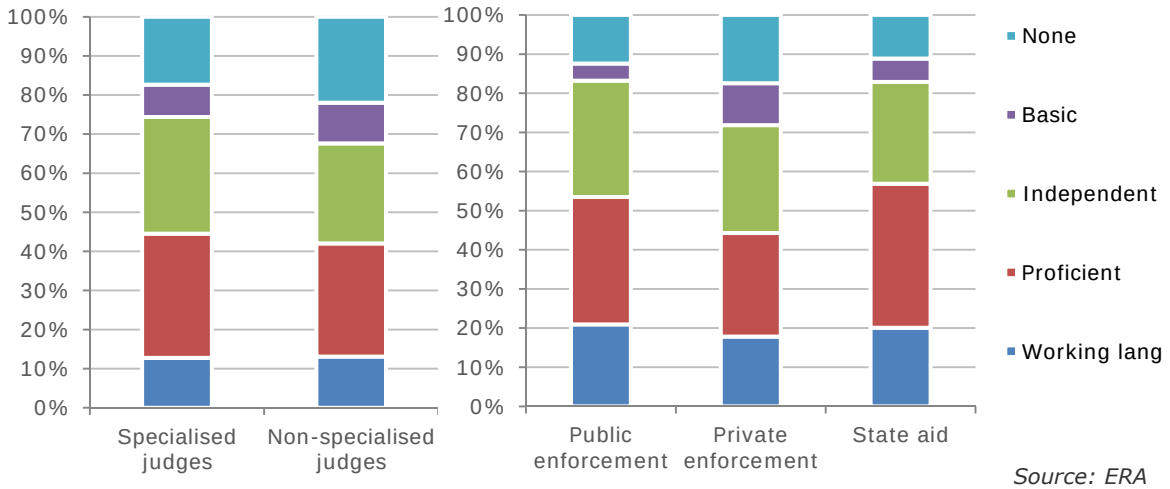
Finally, judges newly assigned to a court dealing with EU competition law matters in civil-law countries require specific introductory training, as most will have dealt with this subject matter neither in their studies nor in the course of their professional career. It seems, however, that such training is rarely or never provided.[138]

[138] *The survey results confirm that judges, even if they have since specialised in EU competition law, rarely dealt with the subject in any depth as part of their academic studies. Only 2% of partially or exclusively specialised judges had previously worked in a competition authority, though more may have gained some*

3.8. Language skills

While on first impression, the survey suggests that English may be a good lingua franca for judges dealing with EU competition law, it should be borne in mind that the sample was drawn from among judges inclined to respond to a survey on their training needs in a specific field of EU law and therefore – it might reasonably be assumed – in command of better foreign-language skills than the average judge. The detailed responses in any case provide a more nuanced picture[139]:

Fig. 3.8. English-language skills of different categories of judges



Source: ERA

Whereas over half of the judges dealing with public enforcement of competition law and State aid cases described their English-language skills as proficient or working language-level (the level considered necessary to participate actively in a training programme on a legal subject), a third of non-specialised judges – who are most likely to hear private actions – said they had no or only basic English. The language of a training programme was cited as the second most important factor (out of ten) for choosing it, superseded only by the subject matter itself. The need for more content in one's own language was cited as the main reason for not using EU databases.

In the focus groups there were distinct differences of opinion on language capability to attend training courses. Trainers would prefer participants to be familiar in working in English. In contrast, many judges felt they were working with the national system of competition law, applying EU law through the national system, and that the proper command of competition law terminology in the national language was therefore required. English language competence might be useful for exchanges with judges from other jurisdictions or for reading relevant case law from foreign courts, but it should not be a necessary criterion for funding of national EU competition law training. Knowledge of English – in particular the technical terminology of competition-law English – must be promoted as a common working language, but training materials

experience in private practice. These findings are supported by the responses to the consultation of lawyers in private practice.

[139] It should be noted that the responses to the survey for this study (which was conducted in six languages: English, French, German, Italian, Polish and Spanish) were not significantly different to those to the survey conducted for the European Parliament study published in 2011 (conducted in all EU languages). 79% of respondents to this survey said they could speak English as a foreign language (EP Study: 81%); 32% said they could speak French (EP: 40%); 21% German (EP: 17%); and 10% said they could speak no foreign language (EP: 12%).

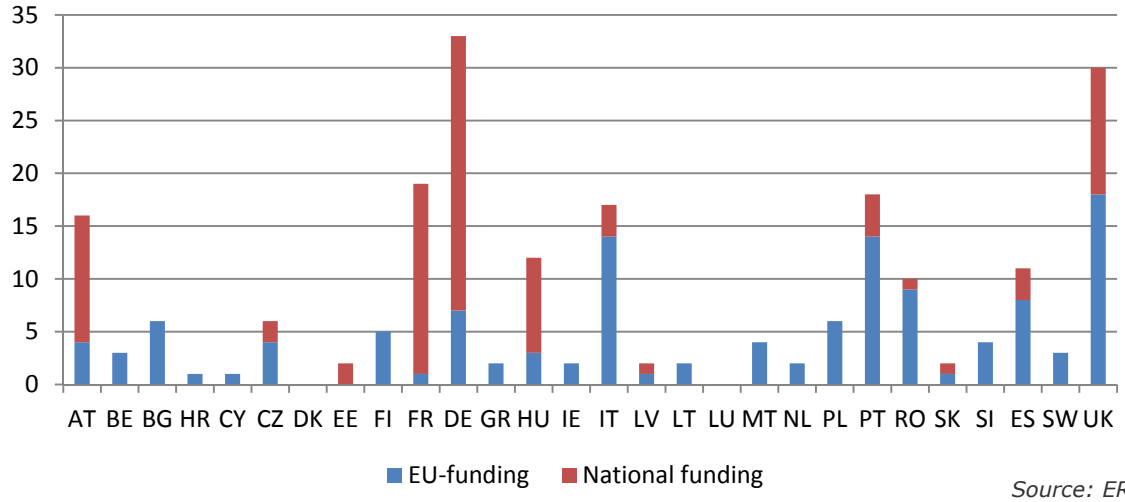
and other resources in the field of EU competition law should also be provided in national languages.

3.9. Training opportunities and preferences

Current training provision

The country profiles describe, on the one hand, the provision by the official judicial training providers in each Member State of training in the field of EU competition and State aid law, and, on the other, training opportunities in each Member State funded by the European Commission's "Training of National Judges" programme. They also contain some information on in-house training organised within courts, especially of the more specialised kind (France, UK). In only four Member States (Austria, France, Germany and the UK) are there regular training opportunities for judges that are not funded with EU support[140]. Indeed it is striking that in many Member States, the only training opportunities for judges in this field were provided with financial support from the European Commission, either in the form of training activities organised in those countries or through cooperation with international or European training providers such as ERA, EUI or the OECD/GVH[141].

Fig. 3.9. Number of competition law-related training activities for judges per MS 2003-15



Source: ERA

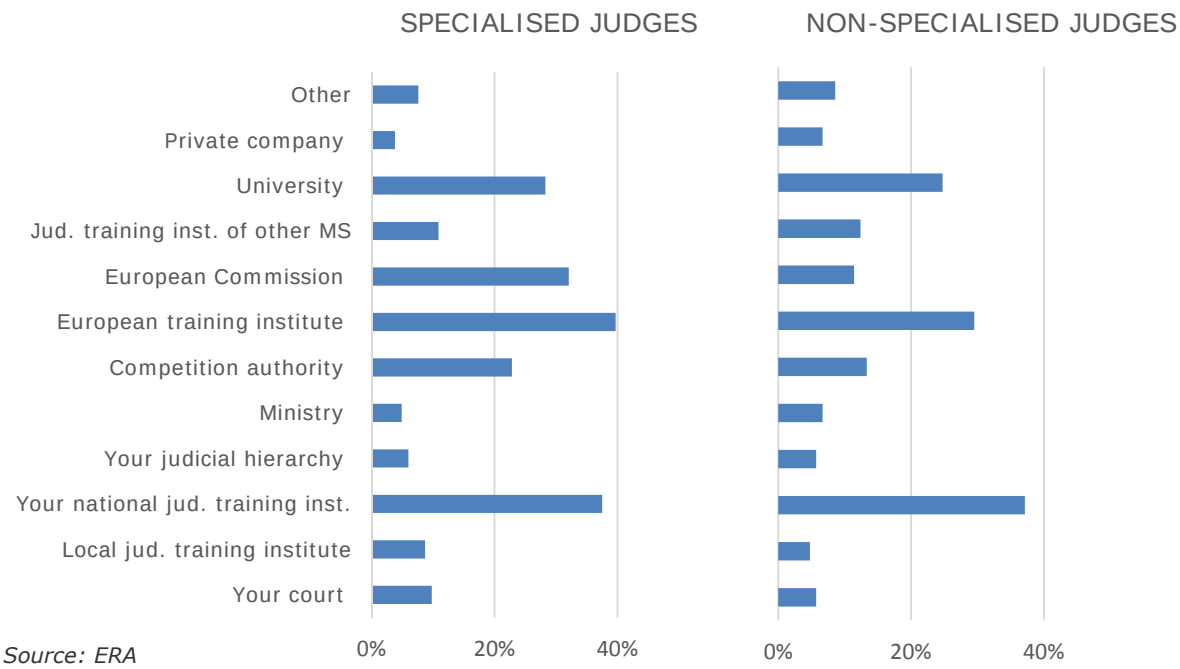
Even in a country such as Italy, where the Italian Competition Authority considers the provision of basic and advanced training to be adequate, the authority pointed out that more dynamic training was necessary to allow judges to face novel challenges and to keep up-to-date with the rapid evolution of competition law.

52% of specialised judges who responded to the survey and 29% of non-specialised judges said they had participated in a judicial training programme on EU competition law. European-level training institutes, national judicial training providers and universities, which have been frequent beneficiaries of the funding programme, all played an important role. The European Commission itself and, to a lesser extent, national competition authorities are also important for specialised judges. There

[140] *N.B. The figures for Hungary include events organised by the Hungarian Competition Authority (GVH) before this too benefited from EU funding, which were targeted at judges from multiple jurisdictions.*
[141] *See Annex 2.3. for a summary of the training activities organised in each Member State and the individual profiles in Annex 1.1. for details of the cross-border activities to which national judicial training institutions sent judges.*

appear to be few other providers of training for judges in this field. In-court training also plays a relatively minor role.

Fig. 3.10. Organisers of judicial training on EU competition law



Source: ERA

The individual country profiles – supported by discussions in the focus groups – reveal that demand from judges for training in EU competition law is generally low, so many national judicial training institutions prefer to make use of places on programmes by other providers than to organise them themselves. Due to the comparatively small number of applications, however, the chances of being awarded a grant under the Training of National Judges programme is nevertheless higher than with other EU funding programmes, which creates an incentive to apply even if the national institution has other priorities[142]. This lack of competitiveness may lead to the award of grants to poor-quality training projects. The notion of over-supply playing a role in the popularity of the funding programme in Portugal was confirmed at the focus group in Lisbon, where one specialised prosecutor claimed to have much greater training needs in other areas of law but that only training in EU competition law received funding.

Trainers noted the potential inefficiencies of the current programme in that training proposals were not scrutinised on how they could build upon previous programmes or courses, and may duplicate previous courses in terms of the content and level of training.

From the perspective of judges, the motivation to attend courses is mixed. Almost no survey respondents said that they were obliged to participate in EU competition law training, but both the survey and the focus groups indicated that whether attendance at courses would facilitate career progression was an important factor. The long-term benefits of training far outweighed any immediate need for such training.

[142] *Comments of national judicial training providers in the focus groups.*

Current demand for training in EU competition law

The majority of survey respondents said that they would like more training on EU competition law. Demand was much stronger among specialised than non-specialised judges, but there was no significant variation depending on whether the respondents dealt with public enforcement, private enforcement or State aid.

The focus groups revealed a demand for training to be more selective and to target particular groups of judges who may need specific training on certain parts of competition law with problem-solving or case management at the heart of the training. Purely academic training in competition law is not an appropriate way to train judges. Judges and practitioners noted that procedural aspects are as important as training in substantive law (both basic law and updates) and this necessitated an integrated approach focusing upon national procedural aspects.

Demand for training on economic aspects of competition law is not high but it is important to distinguish the needs of different target groups: judges dealing with public enforcement expressed more interest in training on the definition of markets whereas those handling private actions were more interested in the quantification of damages. The focus groups revealed that the desirability and necessity of including economics training for the application of EU competition law at national level needs to be further explored, as it was recognised that it could be valuable for the analysis of facts at first instance, but it was not considered to be a major issue currently.

There was a broad range of responses from national competition authorities on the nature of training and how it might be improved. The Croatian Competition Authority, for example, suggested that training should be given by other judges and other NCAs, as well as practising lawyers. It was suggested that local training at a decentralised level would be more attractive to judges (Cyprus). The Hungarian Competition Authority also noted that training from advocates would be useful, to observe how a case would be presented to a judge. Mixed teams of trainers, composed of academics and practitioners, were seen as suitable by the Italian authority. Complete funding of training programmes, covering all expenses, was an important factor for the *Bundeskartellamt* (Germany). The Italian authority mentioned the need for linguistic training as part of EU competition law training. The Competition Council of Romania recommended greater involvement of the EU Institutions (especially the European Commission and the European Courts).

Priorities and preferences for training

Both judges and trainers mentioned the value in bringing judges together from different jurisdictions to exchange views and the need for follow-up contact, for example, through a closed forum online, follow-up seminars to develop new ideas or practices learnt from previous training programmes as well as continuing programmes[143]. As the country profiles show, until recently most training programmes were organised on a mainly national basis, providing little opportunity for judges to train with judges from other jurisdictions. This is changing, however, with more cross-border judicial training programmes being offered with support from the "Training of National Judges" programme.

Training programmes in the Member States are generally provided for judges only, rather than together with other groups such as national competition authority officials, economists or lawyers in private practice. A considerable majority of survey

[143] *63% of survey respondents said they would appreciate more joint training with foreign judges. The demand for more follow-up to such encounters emerged from the focus group discussions.*

respondents nevertheless expressed enthusiasm for joint training with other professions, mostly with staff of competition authorities but also with lawyers in private practice and other professions[144]. There were mixed views in the focus groups on the integration of training with practitioners, however, given the need for judges to retain anonymity and confidentiality and to have confidence within the training fora that this would be respected.

On this question the responses from the competition authorities in Romania, Poland and the UK saw merit in opening up joint or mixed training in that specialist members of the legal profession, especially the Bar, as well as members of the competition authorities, would provide useful insight and understanding of the role of a competition law judge. The majority of responses suggested that the nature of the topic under discussion might be a crucial factor in determining if mixed training should be undertaken.

Another preference-related question posed in the survey concerned the use of distance learning. Less than a third of respondents had used distance-learning but over half expressed interest in doing so. Contrary to common assumptions, there was only a minor correlation between the age of respondents and their enthusiasm for e-learning[145]. Given the unpredictable training needs of non-specialised judges, it is worth considering whether online training programmes "on demand" might be a more efficient method of meeting their training needs than face-to-face programmes of which they may never have to make use.

3.10. Networking, databases and cross-border activities

Apart from occasional joint training activities and – for specialised judges – the meetings of AECLJ, the country profiles show that there are few opportunities for judges to meet or contact judges from other Member States who deal with competition law. The most well-known network for cross-border cooperation among survey respondents was the European Judicial Network in Civil and Commercial Matters. Awareness of AECLJ was higher among judges dealing with public enforcement than those handling private actions but could be raised considerably given its unique role as a forum for judges in this field to meet[146]. No other significant networks emerged from the survey. In some but not all Member States, national competition law associations or similar fora exist in which judges can meet and exchange with practitioners and academics in the field of competition law[147].

The Exchange Programme organised by EJTN allows judges to work for short periods in other Member States or even at the Court of Justice of the EU. Around one-third of survey respondents had already participated in an exchange. Satisfaction with the experience was generally high. EJTN together with AECLJ has this year launched a competition-focused exchange programme.

The need for follow-up aspects of training was clearly recognised by the focus groups, for example a database of national court decisions, continuing sessions on new developments at the national and EU level. It was noted that English was now the

[144] *81% of respondents said they found training with other professions to be useful, with 68% supporting training with staff of competition authorities and 57% for training with lawyers in private practice.*
[145] *40% of respondents aged under 40 (37% aged 40-49 and 24% aged over 50) had used distance-learning and 59% (60% aged 40-49; 49% aged over 50) said they would like to make greater use of it.*
[146] *42% of respondents with experience of public enforcement said they were aware of AECLJ and only 21% of those with experience of private enforcement.*
[147] *See the individual profiles in Annex 1.1 for more details.*

dominant language in competition law information (EU level case law and policy) as well as much academic commentary and professional resources. Thus there was a need for resources to be channelled to translating major EU policy developments into national languages in order to make information more accessible. A database of the most important case law from non-English-speaking jurisdictions might also be more useful to judges in many civil-law jurisdictions than the English-dominated case law from common-law jurisdictions.

4. Evaluation of DG Competition's "Training of National Judges" Programme

This chapter consists of the evaluation of the performance of the "Training of National Judges in the field of EU competition law" programme (hereafter also referred to as the "Training of National Judges Programme" or "the Programme"). The evaluation has been conducted separately from and in parallel to the other parts of the study, ensuring the independence of the evaluation process. The results of the other research activities have been used as an additional reference regarding the training offer in the field of competition law in Europe, and have allowed to frame the analysis of the Programme in a wider context. The process of information collection and processing can be described as an interactive process continuously integrating further information and validating preliminary conclusions[148].

The evaluation covered the criteria of relevance, effectiveness, efficiency, coherence and EU-added value and provides additional insights related to the criteria of complementarity and sustainability of the Programme. Each sub-section below starts with a description of the criterion, the key questions to be covered and a brief assessment of the answerability of the questions. The sections then elaborate on the findings which are the result of triangulation of information collected through a series of methodological steps, involving both quantitative and qualitative methods (as briefly described in chapter 2 and in further detail in Annex 3.2).

The following sub-sections display the key findings of each evaluation criterion used and on the monitoring system (further inputs such as methodological explanations, analysis of the limitations and inputs for the evaluation, in-depth results on the participants' survey, questionnaires and tools for the collection of information and a re-construction of the Programme's intervention logic are included in various annexes to this report). The conclusions and recommendations based on the analysis are presented in chapter 5.

4.1. Relevance

Description of the relevance criterion	Key questions to be covered
"Relevance looks at the relationship between the needs and problems in society and the objectives of the intervention. Things change over time – certain objectives may be met or superseded; needs and problems change, new ones arise."[149]	- To what extent are the Programme's general, specific and operational objectives relevant to judges' training and networking needs? - To what extent are the priorities announced in the calls for proposals relevant to judges' training and networking needs?

[148] *A further detailed description of the evaluation methodology is presented in Annex 3.2. Annex 3.3 provides a commented evaluation matrix providing a comprehensive overview of evaluation questions, the sources used to collect information, the research method and indicators to answer the questions and comments, limitations data and information*

[149] *http://ec.europa.eu/smart-regulation/guidelines/ug_chap6_en.htm*

The relevance analysis is a crucial part of this programme evaluation and started from the re-construction of its intervention logic (see Annex 3.1), followed by the analysis of the correspondence of its main items with the existing judges' training needs in the field of EU competition law. The verification of the relevance represents the basis for the analysis of further criteria, and especially of the EU-added value[150] (see section 4.5).	
Assessment of answerability of key questions: The relevance could be assessed through confronting the outcomes of the needs assessment of judges in the field and the re-construction of the intervention logic. An aspect hampering the evaluation is the lack of a needs assessment when launching the Programme and a lack of clarity on the intervention logic at an early stage, implying that the objectives and changes expected from the Programme are not built in reference to a baseline framework. This also reduces the ability of precise benchmarking. Both questions could therefore be answered in a qualitative form applying the technique of triangulation. Further precision in future programming, taking into account a thorough needs assessment could support the evaluability of the Programme. *Please see Annex 3.3 for more detailed comments on the evaluation questions.*	

The EU Training of National Judges Programme was launched in 2002 by the European Commission as a response to the new requirements and powers for the national judiciary and associated staff engaged in the application of EU competition law. The Commission believed that "assistance should be provided to national judges, as regards the exercise of their new powers"[151], and the relevance of this typology of support was confirmed by all the stakeholders consulted by the evaluators.

The acknowledgment and observation of the need for support, nonetheless, was not accompanied by a systematic analysis of the specific training needs of judicial actors in this field, as stressed by the Programme managers[152]. According to the theories related to the programme cycle and the intervention logic, the establishment of a programme and its objectives should be based on the previous identification of the existing problems and needs of the target group, being this a first step to maximise the relevance and potential effects of any foreseen intervention.[153] This becomes especially important when taking into account the extremely varying scenarios and settings existing at national level, as pointed out by most consultees[154] and the mapping exercise undertaken in this study[155]. If the needs assessment is not detailed, it increases the probability to get widely formulated objectives which are difficult to monitor and do not necessarily reflect the changes that the intervention aims to and can generate (given the context characteristics, such as the available funding, the country specificities and other factors determining the feasibility of an intervention).

The lack of such an exercise also hinders the creation of a baseline, which would serve as a reference also for the staff involved in the management of the Programme. In the case of this specific Programme, the changes and turnover in the personnel in its management unit, summed to the lack of a baseline document,[156] implied the need for

[150] *http://ec.europa.eu/smart-regulation/guidelines/ug_chap6_en.htm*
[151] *See for instance the 2008 call for proposals http://ec.europa.eu/competition/calls/proposals_closed.html*
[152] *Based on interviews with Programme managers*
[153] *COM (2015) 215 final: Better Regulation Guidelines*
[154] *Based on interviews with training providers and focus groups*
[155] *See chapter 3 and annexes*
[156] *Based on interviews with Programme managers*

the evaluation team to reconstruct the "historical memory" of the Programme through different sources[157].

One of the functions of this evaluation is to provide the European Commission with knowledge on the Programme's capacity to address the judges' training needs related to EU competition law. In this context, the assessment of the judges' needs for such a Programme represent the starting point of the evaluation exercise.

A fundamental step: the identification of judges' training needs in the field of EU competition law

The mapping carried out as part of this study[158] represents the starting point to assess the relevance of the Training of National Judges Programme and to allow the Commission to adopt the most efficient and effective approach for project generation. This becomes particularly important in a context where strong differences exist across the Member States in terms of national judicial settings, of degrees of specialisation and of the development competition-related litigation at national level, all of which affects the levels of participation of national judges[159].

For the evaluation purposes, a lesson that can be derived from the mapping exercise is the confirmation of a heterogeneous reference situation in Europe that observed important differences between countries and that confirms the need for the Programme to be general enough to cover this diversity, but also specific enough to tackle the existing specific national needs in this field.[160]

Relevance of the Programme's general objectives

The general objective of the Programme is to promote an effective and coherent application of European competition law with respect to Articles 101 and 102 of the TFEU and/or State aid rules and eventually private enforcement[161]. This is seen as essential for the creation of a European competition culture in terms of consistent application of EU competition Law and cross-border cooperation between judicial actors dealing with cases in the field.[162] This general objective covers both the enhancement of a consistent application of EU competition law (including the preparation from a theoretical and practical perspective); the support to networking and the creation of a wider community of practitioners in the competition law field across the EU (cross-border cooperation), while also tackling specific training needs in this area.

The availability of European funding for the provision of training in a specific area of law is (as stated above) based on the assumption by the European Commission that a need in this field exists which is not covered at national level.[163] Results from the survey conducted for the needs analysis and mapping among judges confirm that only one third of them dealing more than 10% of their time with competition law had substantial training in EU competition law as part of their law degree (at least 10% of the degree focused on this subject). Half of them had no training at all as part of their

[157] Sources used are: interviews with programme managers, training providers, DG JUST annual work plans, steering committee documents, calls for proposals, applicants' guidelines
[158] See chapter 3
[159] As stressed by different interviewees, i.e. DG JUST and the authors on the European Parliament study. Moreover, the overview of the Programme's geographical presence, as estimated by the Commission, displays considerable imbalances in terms of final participants
[160] Based on mapping of jurisdictions and training
161 http://ec.europa.eu/competition/court/introduction_call2014_en.pdf
[162] Based on interviews with programme managers and feedback from the Expert Panel
[163] Based on interviews with Programme Managers and annual calls for proposals

degree.[164] Nevertheless, the lack of a systematic needs analysis until the present study raises questions about the existence of such training demand at the first place.

In this respect, the Commission can be described as an "enabler" (from both a financial and institutional support perspective) for the provision of training activities related to EU competition law. The Programme offers good opportunities to its applicants, also because their number is limited and thus the competition is lower than in other programmes (e.g. the ones promoted by DG JUST): "*demand exists, but clearly it cannot compete with training in other areas*"[165]. In this respect, this could be seen as a factor that is steering the demand from providers and, ultimately, judicial actors. Different consultees agree on the fact that, despite not being a policy instrument by itself, the Programme provides the Commission with the opportunity to engage in important advocacy and policy work, contributing to the shift of EU competition law towards a higher position in the policy agenda[166] through a stronger awareness among key actors and the creation of a coherent European competition culture.[167]

All consulted stakeholders during the evaluation activities agreed on the need for the Programme to exist and on the relevance of its objectives in absolute terms, especially considering its geographical scope and the specificities of this area of law, which requires a European approach in its interpretation and application. This area is acquiring increasing importance and has a strong development potential for the future. The need to ensure a unitary practice, which is also related to the criterion of EU added value, was identified as one of the main justifications for the EU intervention in competition law in addition to the initiatives that might be promoted at a smaller scale or at national level. [168]

Most consultees stressed that training in competition law is important in terms of acquisition of knowledge and support to its practical application.[169] Nonetheless, in relative terms, the potential character of this field (judges will only potentially need to deal with EU competition law cases) places it in a less relevant position when compared to other areas of law. This becomes especially important in considering that judges prioritise the limited time availability for training activities (leading to conflicting priorities when selecting from training offers).[170]

Declination of the objectives into specific objectives, priorities and activities

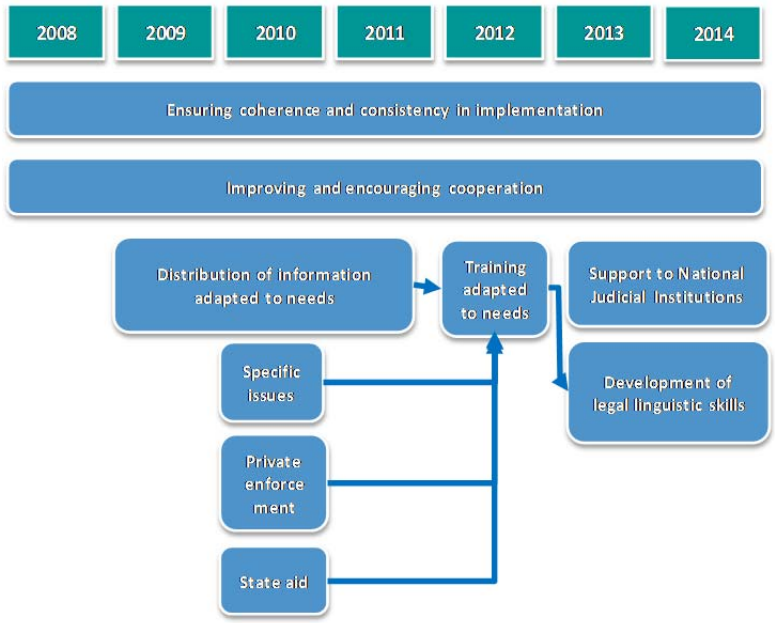
The declination of the general objectives of the Programme into specific priorities and areas evolved over time. Observing the different calls for proposals since the beginning until present[171], it is noted that the first editions of the Programme followed an open, bottom-up approach. Until 2012, applicants were provided with generic instructions related to the typologies of activities (mainly: conferences, training, dissemination of information, and networking).

[164] *See Survey on Needs and mapping of jurisdictions*
[165] *Interview with a training provider.*
[166] *It is difficult to assess the provision of training under the Programme against the counterfactual scenario of no funding. In some cases training providers state that they would have provided the same, or similar training, also without EU funding. On other occasions, training was adapted to fulfil the 'European perspective' and to become eligible for funding. In other cases however, training providers only organised the training due to the existence of EU funding (see for instance a comment from the Lisbon Focus Group: "The Programme is funded. This is the reason why it is so successful in Portugal").*
[167] *Based on interviews with Programme managers, training providers, the focus groups and the opinion of the Expert Panel*
[168] *Based on interviews with Programme managers, training providers, focus groups, Expert Panel and the participants survey*
[169] *Based on interviews with Programme managers, training providers*
[170] *Based on focus groups and interviews with training providers*
[171] *http://ec.europa.eu/competition/calls/proposals_closed.html.*

Most training providers appreciated the "openness" and flexibility of the first calls for proposals of the Programme, since they allowed the adoption of different content and approaches, strongly relying on the applicants' experience and knowledge of the context and existing needs.[172] If such a broad approach could be relevant in the first phases of the Programme, the gradual accumulation of knowledge and experience at a national level required a reorientation of the Programme towards a more tailored type of support. As stressed by several interviewees[173], funding different and scattered interventions did not always allow for the maximisation of the effects of the Programme at an aggregated level. This pointed to the need for a stronger concentration of the Programme's activities and approaches[174], also in relation to its potential to create a critical mass in terms of human capital throughout Europe.

On-going refinements of priorities of selection and a further shift towards higher details can be observed in the evolution of the Programme over time. Comparing the calls for proposals for the years 2008-2014 we can see a continuity in certain areas (Figure 4.1 below) supporting coherence and consistency in implementation as well as encouraging cooperation. Other priorities have first been added in 2009 and particularly 2010 (naming specific priority areas) and then phrased in a more tailor-made aggregated format (adapting to needs in 2012). In 2013 and 2014 the attention was readdressed to four priority areas including a new focus on supporting national judicial institutions and the development of legal linguistic skills.[175] The following figure illustrates the development of priorities over time.

Figure 4.1: Evolution of Programme priorities, calls 2008-2014



Source: Ecorys

Further efforts in terms of discussing the structure of the Programme were undertaken by its Steering Committee in 2013.[176] This contributed to setting the basis for the

[172] *Based on interviews with training providers*
[173] *Both Programme managers and training providers.*
[174] *Which is reflected in the differences between calls. See: ec.europa.eu/competition/calls/proposals_closed .html*
[175] *ec.europa.eu/competition/calls/proposals_closed.html*
[176] *Based on interviews with Programme managers*

development of the Programme evaluation. These actions demonstrate the concern of Programme managers regarding the value for money (=efficiency) of the intervention and the need to maximise its potential effects (=effectiveness) in response to the judges' needs. In this line, the recently launched call for proposals (2015) has adopted a stronger top-down approach, establishing minimum requirements related to the contents of the training (topic lists).[177] As stressed by the Programme managers, this shift was intended to boost competition by getting a higher number of applications alongside an increase in their quality, and to better adjust to the existing needs on the basis of feedback received from other units of the European Commission and the analysis of the final reports of training providers, among others.[178] Training providers also confirmed the relevance of the calls for proposals and their evolution over time.[179] The evaluators welcome this trend towards a more defined and top-down approach from the Programme.

Relevance of the Programme priorities

A number of factors confirming the relevance of the Programme areas have been identified through the fieldwork and are displayed in Table 4.1 below, building on the priorities outlined in the 2015 call.[180]

Specifically, as displayed in the survey to training participants (Q2), results illustrate that the most common sources of motivation include: increasing theoretical knowledge and skills (on a basic and advanced level), willingness to be updated and connected with the latest developments in EU competition law.[181]

An additional (and more specific) aspect refers to the level of specialisation of the training and knowledge provision. While the expert panel stressed the need to tailor the training provision to the level of specialisation and expertise of judicial actors[182], the training providers are generally more inclined to organise mixed trainings, covering both beginners and specialised professionals.[183] This is mainly due to the difficulty to assess the level of each participant before his/her actual attendance to the training, given the risk of a self-selection bias regarding the perception of one's own level of specialisation.

Table 4.1: Key aspects for the Programme's relevance

	Improvement of knowledge, application and interpretation of EU competition law	**Improving and/or creating cooperation/networks**	**Development of legal linguistic skills of national judges**
Key aspects identified through the fieldwork[184]	- Combination of theoretical and practical approaches; - Focus on both national and international examples and practices; - Participation of national and international high level experts and trainers; - Support of and	- Relevant to support a common culture and trend towards the "unitary practice" of EU competition law rules across Europe; - Practice which is not common in the judicial profession if compared to others: issue of independence and	- Linguistic support is seen as important to ensure a common understanding on the specific terminology since: • Most EU competition law documents are in English; • The translations of key documents into national languages are of

[177] *See: Call for proposals (2015) to provide Training for Judges in the area of competition law*
[178] *Based on interviews with Programme managers*
[179] *Based on interviews with training providers*
[180] *See: Call for proposals (2015) to provide Training for Judges in the area of competition law*
[181] *Based on the Training for Judges Participants Survey*
[182] *Based on meetings with the Expert Panel*
[183] *Based on interviews with training providers and the focus group in Scandicci*
[184] *Based on triangulation of sources (as indicated in the evaluation matrix annex 3.3)*

	cooperation with the Commission throughout the entire project cycle (from the agenda-setting to the delivery); - Wide geographical coverage of the training offer, tackling different areas to ensure a higher participation; - Provision of *ad hoc* assistance to judges (i.e. personal coaching) in order to cover specific individual needs; - Balance between general and specialised knowledge provision.	influence; - Useful to develop case studies and exchange knowledge.	varying quality and can be misleading – and not all documents are translated into the national languages; • Judges do not always have the necessary foreign language skills; - Nonetheless, the provision of specific linguistic training can be of scarce appeal for judicial actors if not combined with the provision of other knowledge.
Judges' perceptions[185]	Most relevant priorities: - Strengthening knowledge in European competition law is seen as crucial and therefore it is important to get updates on latest developments and to acquire both basic and advanced knowledge in competition law; - Training is an opportunity to consolidate the background in competition law and jurisprudence and to get to know other judges' viewpoints; - Training provides an additional support to manage concrete cases and strengthen practical approaches.	Second relevant priority: - Networking as such is not displayed as an overarching need, but it can be stated to be so when it facilitates discussing and sharing information about latest cases in EU competition law.	Third relevant priority: - Training in a cross-cultural environment motivates the judges to enhance and enlarge their expertise, as well as to improve their foreign language skills.
Evidence from the bigger picture: mapping of existing needs (other parts of the study)[186]	The needs survey among judges shows that: - There is a lack of knowledge in EU competition law among the target groups (even in the case of specialised judges) - Many judges dealing regularly with competition law still have not received training in the field; among specialised	The needs survey among judges shows that: - AECLJ[187] is the only significant cross-border network for judges dedicated to competition law but only a minority of its target group (about a third of judges dealing regularly with competition law and even less of those supposedly specialised in the field) are aware of it;	The needs survey among judges shows that the language of a training programme is cited across all categories as the second most important reason (out of 10) for choosing it, superseded only by the subject matter itself. The need for more content in one's own language is cited as the major reason for not using EU databases: - Based on the self-

[185] *Based on the Training for Judges Participants Survey*
[186] *Based on the mapping exercise (see chapter 3)*
[187] *The Association of European Competition Law Judges.*

	judges only 51% had participated in judicial training on competition law; - There is demand for more training in the field; 86% of specialised judges would like more. All indicators show that there is a demand for having training for judges in EU competition law to improve the knowledge about the subject matter. Hence the basic assumption of the EC is confirmed.	- 84% of specialised judges would welcome more opportunities to network with judges from other countries. Confronting these results with the ones from the survey to Programme participants provides a mixed picture. Networking appears to be of interest, but is not seen as a key reason for attending a training. This suggests that the relevance of this activity is confirmed, but it is not the main motivation to attend a training and more seen as a 'welcomed side effect'.	assessment of specialised judges' English-language skills, only 11% spoke it as a working language, 29% considered themselves proficient, 33% independent, 9% basic and 17% did not speak it at all; - A lack of training in judges' own language was the joint second most important reason given for not having attended training and language was also the second most important factor cited in selecting a training programme. This shows that linguistic skills often imply difficulties at the level of English language skills and not on technical language. This raises however the question of the Programme's capacity to reach the whole target group and the need to carefully choose whether to deliver the training in English or in the mother tongue of the country.

Complementary to the above, a number of aspects need to be taken into account to boost the relevance of the training offer:

- **Target group**

The Programme addresses exclusively judicial actors[188], including mainly judges, but also judicial prosecutors and judicial court staff. This means that other professions, such as lawyers, are currently not part of the target group of the Programme.

The issue of the participation of a more varied audience was the object of several discussions in the interviews[189], the focus groups[190] and with the expert panel. Although different opinions exist, especially depending on the typology of stakeholders consulted, most actors stressed that the Programme is targeting the "right" audience in terms of professional status. If opening up participation to a wider audience could be seen as enriching (e.g. for an analysis of the subjects from different angles and mutual learning), matters related to confidentiality of the judicial professions could hamper an effective exchange and participation of the judicial actors.[191] Members of the expert panel, for instance, stressed that they observed this phenomenon in different occasions, when training was open to a wider target group.[192] However, not

[188] *See calls for proposal*
[189] *Interviews with training providers and Programme managers*
[190] *Lisbon and Scandicci*
[191] *Based on interviews with training providers, Programme managers, focus groups, Expert Panel*
[192] *Based on Expert Panel*

involving other parties such as lawyers leaves out the potentially fruitful exchange that could also widen the common competition law culture across legal professions.

In order not to lose such an added value deriving from the meeting and exchanges with other professionals, the consultees supported the adoption of participatory approaches, such as the organisation of open sessions, as complementary (but separated) activities within the training.[193] This would allow to create a specific forum for interaction, while ensuring the confidentiality and stronger focus in the delivery of the rest of the training.

- **Principle of specialisation**

It is important to take into account the principle of specialisation in the judicial profession and to keep a balance and take into account the trade-off between: providing general knowledge to a large target group (with a lower probability of application: dissemination of knowledge, awareness-raising) and the provision of specialised knowledge to a selected target group (expected to be involved in competition law cases: concentration of knowledge, institutionalisation).[194] The results from the survey on judges' needs show that the demand for more training is highest among specialised judges, especially those dealing with public enforcement. A lack of opportunities is by far the most frequent reason cited among specialised judges for not having participated in such a programme. [195]

- **Themes and topics**

As far as the topics on which judges would like more training are concerned, the needs survey shows that they vary according to different categories of stakeholders. Not only non-specialised judges but also those dealing with public enforcement want more training on general principles. The majority of judges would like training focused on case law. When it comes to economics, public enforcement judges wish to have more training on defining markets, whereas private enforcement judges want more training on quantifying damages. This suggests that training could be more adapted to the specific stakeholders needs and targeted accordingly.[196]

For projects that are renewed over time, maintenance of a general basis and provision of specific focus themes to be covered in each edition would seem equally important.

[193] *Based mainly on interviews with training providers and the focus group in Scandicci*
[194] *Based on triangulation of interviews with training providers, the survey, Expert Panel and focus groups*
[195] *Based on Judges survey*
[196] *Based on Judges survey*

4.2. Effectiveness

Description of the effectiveness criterion	Key questions to be covered
"Effectiveness analysis considers how successful EU action has been in achieving or progressing towards its objectives."[197] This analysis is related to the expected and achieved objectives, thus focusing on the results and changes that the Programme has contributed to generate. This section does not take into account the available resources, being this aspect analysed under the efficiency criterion.	- To what extent have the Programme's objectives been met? Where these have not been met, what factors have hindered their achievement? - Should more judges be trained and if so, how can this be achieved? - Is there a geographical imbalance in training for judges and if so, how can this be remedied? - Has the Programme had any unexpected effects (either positive or negative)? - To what extent has the Programme improved the knowledge of judges who have received training through it? To what extent do these judges use their new knowledge in their case work?
Assessment of answerability of key questions: The level of detail of the assessment of effectiveness depends on the precision of the formulation of objectives and of the existing indicators. In the case of the Programme, objectives and indicators exist, but are broad. Therefore the effectiveness can only be assessed in qualitative terms using partially quantitative indicators as inputs for the triangulation of sources. With respect to the questions listed above: - Question 1 can be addressed qualitatively on the basis of a limited baseline. This means that an answer can only be given taking into consideration various limitations of precision. - Question 2 is to be answered in the recommendations of this report. - Question 3 is answered as participants' numbers according to origin are available. The reasons for such differences are various and the need for an adjustment depends on the specific country setting. As outlined in the mapping of jurisdictions and the needs assessment, strong differences occur. Only where neither national nor EU offers exist and where a need for an offer is not fulfilled, action is needed. - Question 4 is answered in the sense that there have not been unexpected effects reported by any of the stakeholders. - Question 5 cannot be fully answered as no baseline exists. We do not know how knowledgeable judges were on the topic and to what extent the training has improved their knowledge. Only full testing before and after training could provide such answers. Such a method is however also to be questioned. The extent to which participants respond positively about the training in terms of knowledge acquired in our survey can however serve as a proxy and provide an indication on the improvement of their knowledge. *Please see Annex 3.3 for more detailed comments on the evaluation questions.*	

Typically, the analysis of the effectiveness of a Programme needs to relate to objectives, targets and a clear delimitation of what the Programme can deliver and achieve.[198] The Training of National Judges Programme is intended to generate knowledge and a homogeneous application of EU competition law throughout Europe.[199] Nonetheless, the establishment of the causality of the effects of the Programme is particularly complicated given different factors:

- In most cases, judicial actors do not deal exclusively with competition cases (due to the absence of a sufficient number of cases to allow for an exclusive

[197] *http://ec.europa.eu/smart-regulation/guidelines/ug_chap6_en.htm*
[198] *COM (2015) 215 final: Better Regulation Guidelines*
[199] *Based on annual calls for proposal*

specialisation in this field, but also to the potential allocation of the competition law case to different courts)[200], thus the effects of the Programme cannot be interpreted or measured in terms of number of competition cases that have been treated and that have benefited from the knowledge and expertise provided by the Programme; and

- The provision of training/ organisation of events is intended to ultimately contribute to the generation of a common EU competition law culture and application throughout Europe.[201] According to the evaluators, the first and more tangible outcomes can be related to the "better preparation" of judicial actors in the field of EU competition law, in terms of enhanced theoretical knowledge and disposal and understanding of the tools for its application, including access to networks and linguistic skills. On the other hand, being the application of this knowledge subject to external factors, the completion of the Programme theory of change (oriented towards a common application of EU law) is more complicated to assess.

Participation in training itself already suggests the existence of a potential effect of the Programme, especially taking into account the time restrictions that judges face regarding training attendance. The Commission has a partial scenario to confirm effectiveness by using the number of participants as an indicator. It calculates that since 2002 "approximately 120 projects have so far been co-financed, involving more than 7000 national judges".[202] This number shows substantial interest in participating in the offer provided by the Training of National Judges Programme and therefore hints towards sufficient effectiveness. But it needs to be outlined as well that the pure number of participations does not take into consideration the counterfactual scenario of a non-existence of the Programme (hence potential substitutional effects of the current Programme).

On the basis of the general need as defined at the origin of the Programme to develop a more coherent and common competition law culture, every judge potentially dealing with competition law (at least once in his/her career) is part of the potential target group. Such a broad definition of the target group however is not effective as many of these judges will not have a direct need to improve their competition law skills. The format of the Programme at this stage offers the possibility of 'self-selection' (at least through training providers asking for funding for specific training offers) not targeting directly a given number of judges, but leaving the approach to the beneficiaries and ultimately the judges themselves to take part in the training[203]. Such an approach can be described as a 'second-best' solution avoiding that potentially interested judges which can be defined as the core target are excluded. The improved understanding on the judicial settings in each Member State as developed in this study may help to move towards the 'first-best' solution of defining and directly targeting, in a more specific way, the core target population which needs training in EU competition law. Stakeholders' opinions suggest that the Programme is ensuring a satisfactory level of coverage of the core target population which is described as "relatively small" in the national contexts, if compared to other areas of law, but less delimitated.[204]

[200] *Based on mapping and training needs analysis in chapter 3*
[201] *Based on the annual calls for proposals and the interviews with Programme managers*
[202] *http://ec.europa.eu/competition/court/training.html. In fact the number refers to participations and is based on data provided by training providers (and an estimate for the last year where no complete data is yet available – for further elaboration on indicators, see section below on the monitoring system).*
[203] *Based on calls for proposals and interviews with training providers*
[204] *Based on interviews with training providers, the Training for Judges Participants Survey and the Expert Panel*

Moreover, the key indicators of the programme implementation (number of beneficiaries by Member State, number of training attendees by training provider and nationality[205]) show a strong geographical imbalance among trained judges under the Programme E.g. the highest number of attendants comes from Portugal (about 15%) followed by Italy. [206]. These numbers are not justified by general population figures or numbers of judges in the respective Member States. The reliability of that information is however limited, since[207]:

- The indicators reflect the number of attendants and not persons: this means that the same person attending various trainings is counted several times[208];
- The indicators do not take into consideration the complementarity of national training programmes: judging effectiveness only based on figures counting the attendants to EU co-funded trainings in the field means that the complementarity with national training programmes is not taken into account;
- The number of participants does not necessarily reflect the need for training[209]: there are many reasons to attend a training seminar or not (e.g. an actual training need; better career chances if showing training in the CV; a genuine interest; no other trainings offered etc.);
- A specific national offer triggers participation (or not): in countries with higher education standards regarding competition law, training may need to be different from options in other Member States. If training providers are able to address the specific needs of a country they may have more applications. If they do not manage to provide a well suited training, the conclusion on a 'lack of need' may be misleading;
- Capacities of training providers play a role in targeting and in determining the geographical offer of training[210]: existing training providers with a well-functioning approach at national level may be able to easily 'pick-up' the possibility of getting additional EU-funding for new trainings. Therefore they may choose to organise also trainings in the field of competition law, while others would not. On the other hand, this could be a signal of the capacity of the Programme to attract quality applicants;
- Internal structures of Member States create target populations which are not necessarily similar[211]: the number of judges potentially having to deal with competition law cases in each Member States can vary substantially and may influence the figures related to the number of training participants.

Despite this lack of homogeneous quantitative data, consultation to relevant stakeholders through interviews, focus groups and the survey to training participants allowed to get a qualitative overview of the Programme's effectiveness, in terms of its ability to contribute to the generation of the intended effects and results included in its theory of change.

Building on the survey responses indicating very high satisfaction, objective 1: "Improving judges' knowledge, application and interpretation of EU competition law"[212] appears to be met to a large extent among those judges having access to the training. 82% of respondents believe that the training improved their knowledge in EU competition law to a good or very satisfactory extent (survey Q12). 65% say that it

[205] *Information collected by DG COMP*
[206] *See: http://ec.europa.eu/competition/court/general_geographical_impact_en.pdf*
[207] *More analysis to be included in the section related to the monitoring system.*
[208] *Confirmed by several consultees and the focus group in Lisbon.*
[209] *See mapping exercise and the survey of judges (chapter 3)*
[210] *Based on interviews with training providers*
[211] *See mapping exercise of national jurisdictions*
[212] *http://ec.europa.eu/competition/calls/2015_judges/call_2015_en.pdf*

improved their skills to handle cases involving EU competition law to a good or very satisfactory extent (survey Q14) and more than 90% state that such trainings contribute to a more coherent competition law culture (survey Q26).[213] As stressed by consultees, if the Programme itself cannot have an immediate effect on the application of the acquired knowledge, it is at least contributing to raising awareness and to providing tools for the interpretation of the EU rules, going beyond the national practices and systems. In this respect, Programme activities were described as relevant to tackle an area less studied in several countries and their quality was appreciated.[214] According to participants' opinions, the training course added value to their knowledge.[215]

Difficult to measure in a quantitative form but being a natural consequence of regular training activities, the strengthened capacities and knowledge of judicial staff also contributed to objective 2: "Supporting national judicial institutions in the field of competition law ".[216] Even though it is a subjective form of measurement, the best possible and most realistic form of assessing the effectiveness of the training to contribute to this objective is the tool of surveying/interviewing and asking to what extent judges feel better prepared to deal with competition law cases after participating in the training.

As commented under the analysis of relevance, the aspect of networking[217] appears to be less on the agenda of training participants: they do not choose training for networking reasons; they do however acknowledge that it is a good side-effect of the training. In this respect, the majority of respondents confirmed positive effects in terms of networking: 61% indicated that the trainings facilitated networking substantially (survey Q6) and 57% said that their professional network has been strengthened thanks to the programme to a good or very satisfactory extent (survey Q16).[218]

Specifically, participants are able to meet colleagues from different Member States and discuss with them common issues that might be solved through different approaches. Many participants pointed out that the possibility to know methods and practices used in contexts that differ from their own institutional settings and limitations was of great use. Some of them stressed that relationships were maintained with other attendants and teachers for a fruitful exchange of ideas.[219]

The effectiveness of the Programme concerning objective 4 "Developing judges' language and terminology skills"[220] is probably questioned to the highest extent by the evaluators. Based on the expert panel and interviews, a common understanding can be found that English is the key working language in competition law.[221] Nonetheless, the provision of training only in English would exclude those judicial actors who lack the necessary language skills to attend training in a foreign language. On the other hand, since many of the trainings are organised in the national languages to attract judges who are not fluent in English[222], this reduces the effectiveness of developing judges' language and terminology skills. This said, pure language classes may not sufficiently raise the interest of judges as they do not always acknowledge their direct

[213] *Based on the Training for Judges Participants Survey*
[214] *Based on interviews with training providers and the Expert Panel*
[215] *Based on the Training for Judges Participants Survey*
[216] *http://ec.europa.eu/competition/calls/2015_judges/call_2015_en.pdf*
[217] *http://ec.europa.eu/competition/calls/2015_judges/call_2015_en.pdf*
[218] *Based on the Training for Judges Participants Survey*
[219] *Based on the Training for Judges Participants Survey*
[220] *http://ec.europa.eu/competition/calls/2015_judges/call_2015_en.pdf*
[221] *Based on Expert Panel, interviews with Programme managers and training providers.*
[222] *Based on interviews with training providers*

link to competition law.[223] For this reason, the Programme should pay specific attention in focusing and tailoring the language training offers to the specific needs of the target groups in each project.

The consultation of key stakeholders[224] allows to identify a number of factors that influence the effectiveness of the Programme activities, among which it is important to mention the following:

- Typologies of actors involved in the provision of the training: the involvement of national judicial training institutions and professional associations is seen as a guarantee for the quality of the training provision[225];
- Networking activities and tools: these activities, in order to be effective, need to be part of a wider project strategy aiming at fostering participation between professionals. When promoted as an isolated action, with no sufficient follow-up, they risk to produce almost no effects in the immediate future, and even less in the longer term[226];
- The organisation and approach of the training are key and informative with respect to its potential effects. As reported by training providers and participants, key success factors relate to: the provision of integrated activities, with a wide geographical presence and structured around different sessions; combination of theoretical and practical approaches (showcases, dissemination of concrete experiences and examples from different countries); use of interactive and participatory methods; selection of participants according to their specialisation levels; involvement of high-level trainers, also able to boost participation; and proactive involvement of participants during the training activities (i.e. through the presentation of cases) and beyond (i.e. in contributing to future publications); among others.[227]

4.3. Efficiency

Description of the efficiency criterion	Key questions to be covered
"Efficiency considers the relationship between the resources used by an intervention and the changes generated by the intervention (which may be positive or negative)."[228] The efficiency criterion in contrast to the effectiveness criterion therefore takes into consideration the costs of inputs into the programme.	- Were the outputs and effects achieved at a reasonable cost? Could the same results have been achieved with less funding? Would using other policy instruments or mechanisms have provided better value for money? - To what extent is the programme cost-efficient in comparison with national training systems (as described in the overview resulting from the preliminary analysis)? - Is the financing method efficient with respect to other possible methods?

[223] *Based on the focus group in Scandicci and the Expert Panel*
[224] *Based on the interviews with Programme managers, training providers, the focus groups and the Training for Judges Participants Survey*
[225] *Based on interviews with training providers*
[226] *Based on interviews with training providers and Expert Panel*
[227] *Based on interviews with training providers, Training for Judges Participants Survey, focus groups in Lisbon and Scandicci*
[228] *http://ec.europa.eu/smart-regulation/guidelines/ug_chap6_en.htm*

Assessment of answerability of key questions:
A lack of indicators comparing inputs and outputs as well as the activities used reduces the possibility to answer the question on efficiency of the programme. Only if we knew how much has been invested (money input), what could be financed with it (what trainers, how many hours, what content etc.) and what was its impact (how much are participants better in terms of the objective than before the training?) and if we had comparable figures for other programmes, we could fully assess the efficiency of the programme.
Question 1 can therefore be answered only by using comparative examples of similar programmes and the impressions/responses of training providers. This reduces the possibility to provide a complete answer, but serves as an indication on whether the programme was more or less efficient.
Question 2 can be answered similarly to question 1, with the extra challenge of having not fully comparable offers. EU training often includes an international component which is by definition (travel, translation etc.) more expensive than a purely national training. As both trainings do not address the same objective they can also not be directly compared.
Question 3 can be answered based on the information gathered from other programmes and on the views of training providers. The efficiency of the financing method also depends on what the aim of using a specific financing method is. Maybe other financing methods are more efficient, but they do not address the objectives in the same way.

Please see Annex 3.3 for more detailed comments on the evaluation questions.

Costs and proportionality
Training providers acknowledged that, in general terms, the available budget for the provision of training is sufficient, although barriers and burdens seem to exist from an expenditure eligibility viewpoint and in relation to the administrative justification of expenditure (expenses claims).[229]

To improve the efficient use of the available funding, the European Commission makes use of the negotiation phase following the funding award.[230] Training providers mentioned that the Commission thereby aims at reducing costs for areas such as travel arrangements.[231] The desk research has shown that the evaluation committee assessing grant proposals also focuses on evaluating whether certain aspects of training are justified. Study trips are only eligible if they are adequate in terms of length and for acceptable cost. At the end of the training beneficiaries need to provide proof of expenditure incurred to receive funding.[232]

Comparing the Programme's cost-efficiency with the national training provision is however difficult given the different nature and target group of the training. Training providers stressed that the international character of training could not have been ensured through national funding. In this respect, they supported the idea of the cost-effectiveness of training while taking into account the uniqueness of the international component.[233]

Financing methods and approaches
As highlighted in the analysis of the Programme relevance, the system of Calls for proposals (within the grant system) has evolved over time. The evaluators welcome the direction towards a stronger orientation from the Programme and observed the following improvements in the Calls for proposals[234]:

[229] *Based on interviews with training providers and the focus group in Scandicci*
[230] *Based on interviews with Programme managers*
[231] *Based on interviews with training providers*
[232] *Based on the assessment of projects (see list in annex 3.1)*
[233] *Based on interviews with training providers and the focus group in Scandicci*
[234] *Based on the calls for proposal 2008 - 2014*

- Increasing effort of the Programme to ensure a higher visibility and dissemination of the Calls for proposals, for instance by announcing them also through the webpages of relevant national actors;
- Increasing transparency on the selection and awarding process, through the publication of relevant information on the Programme's webpage;
- Evolution towards a more defined top-down approach;
- Call for interest for evaluators: since 2013, increasing attention to the proposal evaluation process, by the appointment of specialised evaluators with relevant thematic knowledge (including staff from other DGs);
- Evaluation of proposals on the basis of several criteria, that have been adjusted over time to better reflect the objectives of the calls;
- Better support to the applicants, through the provision of guidelines and a specific support system (direct questions can be sent to a functional mail address); and
- Stronger attention and balance in terms of participants' nationalities. [235]

This trend has been confirmed by training providers, who acknowledge the attempt of the Programme managers to better guide the project generation, application and delivery processes. Nonetheless, when brought to practice, the nature of the activities is still quite heterogeneous and projects can present very different scopes and sizes.[236]

The grant approach is used in several EU interventions. It is however not the only existing option and it is important to compare it with other funding approaches. While taking into account the funding and delivery forms of the programme, consultees highlighted a number of strengths and weakness of the grant system while comparing it to other funding forms, such as public procurement, which are presented in Table 4.2 below.[237]

Table 4.2: Strengths and weakness of grant systems and alternative approaches

	Grant system	Alternative approach: public procurement
+	- The co-funding component can constitute a first filter to select only applicants with a real interest in the Programme' activities. - Related to the points above, and in order to maximise the potential of the Programme, the provision of guidance and the definition of clear selection criteria in the calls for proposals are seen as a potential way to ensure the cost-effectiveness of the grant system. - Grants results to be useful and worthwhile, also from a cost-effectiveness perspective, when strong competition exists in terms of number of applications. - Given the application and reimbursement procedure, this approach could contribute to ensure beneficiaries' commitment. [238]	- Possibility to select the most prepared and relevant training providers. - Economy of scale deriving from the concentration of the activities in a lower number of actors and lower administrative burden related to the proposals of the different training activities. - Possibility to adopt a longer term perspective for the training provision. - Possibility to strengthen providers' ownership of the programme objectives and to benefit from their existing activities, networks and approaches. - Possibility to launch multi-annual programmes, which would decrease the administrative burden, support sustainability and allow for longer-time

[235] *Based on the calls for proposal 2008 - 2014*
[236] *Based on interviews with training providers*
[237] *Based on interviews with training providers, Programme managers and the focus group in Scandicci*
[238] *Based on interviews with training providers, Programme managers and the focus group in Scandicci*

		monitoring and follow-up. [239]
-	- The co-funding component might pose barriers to participation of relevant actors that cannot provide a co-funding given their financial or legal status. - Competition until now has been weak, challenging the potential quality and relevance of the activities provided given the limited selection. - The grant system allows for applications for projects with different sizes. The selection of a high number of scattered initiatives may hinder the promotion of a critical mass in terms of training provision and related results (lack of coordination between beneficiaries of the Programme: risk of repetition and overlaps of similar initiatives). - Time factor: the time perspective (yearly basis) is conditioning the typology and approach of training provision, and potentially the sustainability of results. - Communication is key to advertise the calls for proposals to foster competition and participation. - Important administrative and justification burdens can play against smaller providers that do not count with specialised administrative units for project management/claims. If too burdensome, it could be excluding potential applicants. - Yearly calls may generate financial dependence for certain training providers. - Important administrative efforts to submit project proposals and the related documents on a yearly basis. [240]	- Concentration of funding on a limited number of actors, supporting the biggest and most experienced EU law training providers against other actors, i.e. national universities. - No co-funding by other parties creating potentially higher costs for the EU. [241]

The evidence available suggests that, if using a grant system, the Programme should try to ensure stronger competition between applicants and better steer the application and project generation process through the establishment of more specific eligibility and selection criteria, covering specific aspects (i.e. thematic approaches, geographical scope of the interventions, profile and expertise of the applicants…).[242]

The establishment of efficient and effective selection criteria (either calls for projects or public procurement) should be oriented to support the best prepared actors in providing training in EU competition law and to avoid a scattered scenario where beneficiaries deliver training without projection over time – hindering the sustainability of the Programme.

[239] *Based on interviews with training providers, Programme managers and the focus group in Scandicci*
[240] *Based on interviews with training providers, Programme managers and the focus group in Scandicci*
[241] *Based on interviews with training providers, Programme managers and the focus group in Scandicci*
[242] *Based on the assessment of projects and interviews with Programme managers and training providers and the focus group in Scandicci*

4.4. Coherence and complementarity

Description of the coherence and complementarity criteria	Key questions to be covered
Checking coherence and complementarity *"means looking at how the […] components of an EU intervention operate together to achieve its objectives"* (=coherence) and *"to what extent […] EU policies and interventions support and usefully supplement other policies (in particular those pursued by the Member States)?"*[243] Therefore, these criteria show how the Programme is framed in the broader picture of similar interventions and try to detect whether the Programme duplicates the already existing offer of others or provides something additional to, or able to multiply the effect of what already exists.	- How well does the programme work together with national judicial training programmes? Is the programme necessary/complementary to train judges on competition law? - To what extent has the programme proved complementary to other EU grant programmes, especially to projects financed by DG Justice?
Assessment of answerability of key questions: Coherence and complementarity involve a hypothetical counterfactual scenario as a baseline of comparison, but this stays as a theoretical exercise. However, based on the impressions of participants and training providers and on the comparison with other programmes, these criteria can be assessed to a good extent, and namely: - Question 1 can be answered on the basis of interviewee opinions and survey respondents. Given that most training providers under the programme are also national programme providers, coherence can be captured. - Question 2 can be answered as we are talking about a very specific part of (EU) law which makes it possible to assess whether such training is complementary with other offers or not. *Please see Annex 3.3 for more detailed comments on the evaluation questions.*	

The degree of complementarity of the Programme at national level is strongly related to the specific contexts and training provision in each country. Taking into account the results of the mapping exercise of the offer of training in EU competition law in the different Member States, it can be observed that the Programme is playing a key role in the dissemination of knowledge in this specific areas of law. According to the collected information, the Programme is the only funder of EU competition law training in a number of countries (i.e. Belgium, Bulgaria, Czech Republic and Ireland, among others) and is playing a preponderant role in the promotion of this knowledge in several other countries that also count with a national or sub-national training offer in this field. In most cases, the Programme is providing a structured framework to train judges in EU competition law, with a few exceptions where the national or regional systems also position this subject highly on the training agenda (i.e. Sweden, Spain, Italy and United Kingdom, among others), and is providing a basis for the continuation of training activities over time. The Programme seems to be complementary, and not overlapping, with the offer existing at national level and, in some occasions, a key driver for knowledge creation in this area of law. Moreover, it is important to note that a number of key players are providing training in this field both with and without funding from the Programme.[244]

This information stems also from the survey results. The survey responses (survey Q22) provide a very strong basis to state that the Programme is highly

[243] *http://ec.europa.eu/smart-regulation/guidelines/tool_42_en.htm*
[244] *Based on mapping exercise, the calls for proposal and interviews with training providers and Programme managers*

complementary to the existing training on offer at national level, either because no relevant training programme is provided in the country (36% of the responses) or because the Programme is ensuring a high (16%) or at least partial (44%) complementarity to other national training. Only a minority of respondents observe overlaps between the Programme and other national training provision (4%).[245] Such results however do not judge whether the Programme is only complementary or in some cases also substitutive to potential in-country training offers.

Complementarity with national and regional training opportunities[246] depends on the actors involved on the ground. It is very important to have such actors on board when designing a training programme to have the capabilities of reaching the target group and to avoid duplicating the offer.[247] In different cases, training providers organising training are well established institutions (e.g. universities) or associations which are well aware of the national specificities. In such a case, they are generally in a good position to address the right target group and to align the Programme with other training already offered – nonetheless, it is also important to veil that these entities count with similar previous experience in the country and to avoid project applications only motivated by the availability of funding.

Other cases were mentioned where, to introduce an international/European component extra-national activities such as travels, conferences in other countries or combined trainings were offered in other countries, training providers took higher risks of failing gathering sufficient applications.[248] The cooperation and coordination with such key players, i.e. the national judicial schools, also contributes to boost coherence in the training approach and offer in each country. In this respect, the capacity of potential beneficiaries to cooperate with key national actors (i.e. the national judicial schools) has been stressed by key stakeholders[249] as an important basis to ensure complementarity between activities promoted through different funding sources.

In terms of horizontal complementarity[250], the EU is offering relevant training under the DG JUSTICE Programme in training for judges in EU law, as well as through training initiatives in specific thematic areas (i.e. in environmental law or in EU anti-discrimination law, among others)[251]. As far as other initiatives at an EU level are concerned, only a few interventions were identified (i.e. the EJTN exchange programme[252], or the OECD-GVH Regional Centre for Competition in Budapest[253]), stressing the uniqueness of this programme at this institutional level.

The DG JUSTICE Programme is the only initiative which in theory could present relevant overlaps with the DG COMP Programme. Nonetheless, as stressed by EU stakeholders, coordination mechanisms are in place, including: the publication of the annual work programmes by DG JUST, but consulted with DG COMP; the presentation of the annual reports to DG JUST; mutual learning, including the participation of other programmes' managers in the Steering Committee and the establishment of an inter-service group (bi-annual meetings with other relevant DGs), and a regular dialogue with EJTN. These efforts are undertaken to ensure coordination and real duplication at an EU level is therefore unlikely (although administrative duplication for applicants is

[245] *Based on the Training for Judges Participants Survey*
[246] *Vertical complementarity.*
[247] *Based on interviews with training providers*
[248] *Based on interviews with training providers*
[249] *Based on interviews with training providers and the focus groups in Lisbon and Scandicci*
[250] *Intended as complementarity with other programmes at a EU level*
[251] *Annual work programmes of DG JUST and DG ENV*
[252] *http://www.ejtn.eu/Exchange-Programme/*
[253] *http://www.oecd.org/competition/oecd-gvhregionalcentreforcompetitioninbudapest.htm*

possible), but small overlaps may remain, for example separate approaches to applying selection and evaluation criteria.[254]

Some interviewees and focus group participants questioned the relevance of maintaining a separation between the DG COMP and the DG JUSTICE programmes, since competition law training could be integrated into more general training for judges (e.g. by specific lectures).[255] The integration of the Programme calls for proposal into the DG JUSTICE calls (see the priorities for 2014: civil law; criminal law; fundamental rights; and other topics[256]) would allow, according to them, for a stronger proportionality between needs and funding and a higher flexibility to cover the existing demand. In this line, organisations interested in both training in e.g. civil law and competition law stress that the additional burden of going through different procedures of different DGs is substantial. They argue that competition law could be mentioned as one extra priority. [257] Allowing such integration would, however, risk reducing the focus on competition law. Moreover, the visibility of the focus of DG COMP on training national judges in the field would decrease as well.

The evaluators acknowledge the risk of extra administrative burdens due to separated programmes. These could be tackled by the promotion of coordinated approaches in the calls for proposals of the EU training programmes for judicial staff (independently from the specific thematic field) and through enhanced communication activities.

Moreover, the visibility of training for judges in competition law is increased by a clear separation of themes and competences, which becomes especially relevant if the DG COMP Programme has the role to raise awareness and steer the demand of national actors for knowledge in this field (through a dedicated budget allocation), based on a forward-looking perspective and thus anticipating the probably increasing need for support in the future. The separation of the programmes would also allow training to target specific judges who (may) need to deal with competition law and to avoid that the issue is treated with less importance in certain countries. A full integration in the DG JUST Programme could in fact increase the competition of the provision of training in this area with the provision of training in other areas of law.[258]

Finally, the non-eligibility of judges from Denmark and the United Kingdom due to their countries' non-participation in the Justice Programme despite the full participation of these countries in the EU competition policy is a strong argument not only against integrating competition law training into the DG JUST Programme but also in favour of a complete separation of these programmes, including their budget lines, in order to make the Programme accessible also to these countries.

[254] *Based on interviews with Programme managers*
[255] *Based on interviews with training providers and the focus group in Scandicci*
[256] *http://ec.europa.eu/justice/grants1/files/2014_jtra_ag_ejtr/just_2014_jtra_ag_ejtr_call_notice_en.pdf*
[257] *Based on interviews with training providers and the focus group in Scandicci*
[258] *Based on interviews with training providers and the focus group in Scandicci*

4.5. EU added value

Description of the EU added value criterion	Key questions to be covered
"EU-added value looks for changes which it can reasonably be argued are due to EU intervention, rather than any other factors."[259] According to the subsidiarity principle the EU should not intervene if the same results can be achieved more efficiently at a lower level. This criterion therefore judges whether EU intervention brings extra value added in addition to what exists or what would have existed otherwise.	- What is the additional value provided by the programme, compared to what could be achieved by Member States at national or regional levels? Is the Programme necessary to train judges in EU competition law?
Assessment of answerability of key questions: The starting point of this question is whether in the hypothetical scenario of no EU Programme, national providers would still offer such a training and to what extent the EU Programme changes the counterfactual offer. This change needs to be assessed in terms of added value to achieve the objectives of the Programme. The main question posed can be answered taking into account the mapping of the existing training offer and the findings from stakeholders' consultations. *Please see Annex 3.3 for more detailed comments on the evaluation questions.*	

According to all consultees, the organisation of the Programme at the European level has an indisputable added value when compared to what could be achieved by Member States at a national or sub-national level. Most stakeholders stressed that this strongly derives from the need for a harmonised application of EU competition law throughout the different Member States. [260] It appears to be intuitive that a coherent approach across the EU is best achieved with the involvement of EU institutions. In this line, 95% of survey respondents consider that the Programme has an added value for being organised at a European level (survey Q24).[261] This figure is also aligned with the positive assessment of the coherence and complementarity of the Programme with other existing training offers at a national or sub-national level.

More specifically, the European added value of the Programme can be related to the following:

- It is a privileged platform to accompany the creation of a shared European culture in the field of competition law;
- It provides updates and information on the latest developments of EU competition law: this is something that the Programme is strongly supporting and that was pointed out by the survey respondents as a key factor to be a 'good judge'[262];
- It ensures a cross-border and international dimension of training and mutual learning[263]: access to knowledge, examples and practices from different countries is particularly important under the aim of creating a coherent

[259] *http://ec.europa.eu/smart-regulation/guidelines/tool_42_en.htm#sdfootnote400sym*
[260] *Based on interviews with Programme managers, training providers, the focus groups in Lisbon and Scandicci and the Training for Judges Participants Survey*
[261] *Based on the Training for Judges Participants Survey*
[262] *Based on the calls for proposals, the annual work programme of DG JUST and the Training for Judges Participants Survey*
[263] *Based on interviews with training providers*

competition law culture. Apart from this Programme, the provision of cross-border training in this area of law has been indicated (by training providers) as very limited[264];

- It supports the mobility of judicial actors, at a national and especially at an international scale, which would not be possible without European funding. This fosters the creation of a European competition law community and supports the networking activities and the language skills of participants;
- It ensures access to knowledge and training not provided at a national level: survey respondents stressed that international training represents a unique opportunity to develop expertise in particular areas, such as antitrust, that are scarcely explored in some countries: only an exiguous number of judges, for instance, deals with EU competition law in Poland or Greece. Moreover, training programmes provide national judges with much deeper insights into EU competition law and pragmatic tools to face everyday decisions;
- It boosts harmonisation across Europe by providing targeted support adapted to: the national needs, judicial settings and state of advancement and specialisation in the field;
- It provides direct support to international networking activities, relevant to the creation of a common culture and to support the trend towards the "unitary practice" of EU competition law rules across Europe;
- It contributes to raise awareness on the existence of opportunities and the potential for networking, knowledge exchange and working groups existing at an international level;
- It boosts scale economies and the creation of a critical mass by concentrating an important number of judicial actors (who can be limited in number at a national level);
- It has until now ensured the continuation of training activities over time, contributing to a progressive creation of a EU competition law awareness among national judges, beyond the existing national schemes; and
- It has complemented, and not competed with, the national offers of EU competition law, as displayed by the mapping exercise carried out as part of this study. The Programme in certain cases is the only or main source of generation of knowledge in this field. Being focused on a specific area of law, it provides for additional training opportunities both from a financial and a content perspective at national level – and thus does not compete with the existing offer. This is particularly relevant when considering that, as stressed by representatives of national judicial schools and other training providers, the training offer is necessarily limited for financial and time constraints and, if it was supported only through national funds, it would necessarily become more frequent since it would be one of the different areas of law to be covered by the national training offer. [265]

It is also important to note that, given the national settings and also the limited linguistic knowledge of certain judges, only part of the potential participants are indicated as being directly benefiting from the international dimension of these activities, but interviewees agree that this trend is decreasing.[266]

[264] *Another supporting programme is the Exchange Programme for Judicial Authorities by the EJTN, which allows judges and other court staff to visit and get to know their European counterparts. Cf. http://www.ejtn.eu/Exchange-Programme/*

[265] *Based on interviews with training providers, the Training for Judges Participants Survey and the focus groups in Scandicci and Lisbon as well as the Expert Panel*

[266] *Based on the Training for Judges Participants Survey and interviews with training providers*

4.6. Sustainability

Description of the sustainability criterion	Key questions to be covered
"How likely are the effects to last after the intervention ends?"[267] This criterion analyses whether the intervention has set the bases that allow for the continuation or durability of its results beyond the time span and financial framework of the implementation of the funded activities.	- Are the effects likely to last after the training courses have ended? - Do judges remember what they have learned in training funded by the Programme by the time they need to work on a competition case? - Do judges who were trained in courses funded by the Programme remain active in the field of competition law, or do they move towards other areas of law? - Have networks and databases created through the Programme remained active?
Assessment of answerability of key questions: Sustainability is an additional criterion not directly required in the Terms of Reference of this assignment. It however is a very important aspect of each programme. To test the sustainability of a programme in a precise form, participants would need to be tested, before and after the training and then again at later moments to see whether the training has been sustainable. Such efforts have however not (yet) been made due to good reasons. The questions posed can however also be answered on the basis of the subjective opinion of former participants. All questions can be answered in this way. *Please see Annex 3.3 for more detailed comments on the evaluation questions.*	

The analysis of aspects related to sustainability of the results of the Programme presented certain limitations, as stressed by most consultees. First of all, and related to the effectiveness criterion, the results of training actions are difficult to measure and more is their continuation over time. This becomes even more complicated in a context where the application of the acquired knowledge is only potential. Moreover, further limitations relate to the follow-up of the Programme results over time (and which are common in those interventions targeting individuals).[268]

Sustainability of the results

Taking these methodological barriers into account, the analysis of this criterion needs to rely mainly on the information provided by training participants and has been triangulated with information reported by other key stakeholders. The concept of sustainability has been structured around three main dimensions:

- The extent to which participants remember the content of the training (survey Q27[269]). In this respect, 65% of the survey respondents underline that they have a good or very good memory of the contents of the training, while only 2% stress that they have not retained any knowledge. In terms of knowledge generation, the Programme has thus been successful in contributing to create a long-lasting culture in the field of EU competition law;

[267] *http://ec.europa.eu/smart-regulation/guidelines/tool_42_en.htm#sdfootnote400sym*
[268] *Based on interviews with the Programme managers, the training providers and the Expert Panel*
[269] *One aspect to be taken into account is that these results are the impression of persons having attended the training at different moments throughout the last seven years. Therefore, answers may be biased based on how recent the training was for the specific participant. Such challenges could only be fully overcome by surveying the same individuals at different moments in time. This in addition to existing survey fatigue would however also not allow for anonymity and therefore risk to strongly reduce participation. Such potential bias is hence unavoidable but the evaluators need to be aware of it when drafting recommendations.*

- The extent to which participants still use the networks established during the training (survey Q28[270]). In this case, sustainability is lower, with only ¼ of participants being still active in terms of networking and contacts – and 27% not making any use of them. In line with the analysis of the effectiveness, not only the results of the network support activities are more limited, but they also tend to disappear over time. In this respect, interviewees stressed that networking effects are significant only if they are sustainable;
- The use of the tools and skills obtained during the training. Positive answers[271] count for 41% of respondents, while 48% of participants use these skills and tools only to a limited extent, and 11% never use them.[272]

According to the information reported by training providers, most projects fostered the sustainability of their actions and results over time (in terms of knowledge generation and exchanges between judicial actors) through the setting and promotion of online fora, platforms, networks for exchange of information; online repositories and libraries, with updated information and documents; and publications (i.e. a compendium of decisions of national high courts in competition law cases[273]). The creation of knowledge, especially when it does not need immediate application or use, is in fact challenged by the time factor, as stressed by different training providers.[274]

The effective use and success of the sustainability tools provided by the projects depend on a number of exogenous and endogenous factors related to the Programme.

Factors which are not under the direct control or sphere of intervention of the Programme mainly relate to the lack of digital skills, proactivity and familiarisation of certain judges with technologies. Many interviewees stressed the reluctance of judges to use online tools (and in some occasions, information technologies as a whole). In addition to this first constraint, judicial actors also need to face important time constraints in the daily delivery of their work, which become higher regarding the participation to training and even more when this is related to follow-up activities over time. The high turnover of judges was also mentioned as a key threat to the sustainability of the Programme results – and, similarly, as a justification for the relevance of the provision of training over time, despite the limited volume of the target group of the Programme in several countries.[275]

If these aspects cannot be easily influenced by the Programme, they clearly need to be taken into account in the delivery of the Programme activities as existing barriers. In this respect, the analysis of the typologies of activities and approaches promoted in the projects suggests that scattered, one-stop initiatives have a lower probability to be sustainable over time.[276] Both the generation of knowledge and, even more, the creation of (online) networks and tools need to be supported by comprehensive, participatory and motivational approaches.

In this respect, the ability of the project to generate a sense of community and to promote partnerships and cooperation has been highlighted as one of the key factors for the success of the entire project cycle, from delivery to sustainability. Here, the use of the generated tool is seen as a natural continuation of a longer path established

[270] *See comment above.*
[271] *See comment above.*
[272] *Based on the Training for Judges Participants Survey*
[273] *Interview to a training provider.*
[274] *Based on interviews with training providers*
[275] *Based on interviews with training providers*
[276] *Based on interviews with training providers and the focus group in Scandicci*

through the project. [277] If not, situations like the following can exist: "*We had planned the launch of an online forum, with the idea of creating a space where everyone could participate. The forum was never used*".[278]

Similarly, a key aspect for the functioning and use of these tools is related to the proactivity of training providers, who need to keep the tools "alive" and to stimulate interaction and participation. Relevant examples are the use of the platform as a communication tool with judicial actors (i.e. messages linked to the participants' emails) and their update with relevant information and documents over time. In general terms, it has been confirmed that judges seem more open to use the platforms for consultation, and less as a way to actively interact. This latter case seems to already exist within, but not across, certain countries (i.e. the Focus Group in Lisbon highlighted that Portuguese judges operating in different fields tend to organise and interact in closed groups online, through social networks, but this is based on a mutual trust built over time).[279]

Sustainability of the actions

Apart from the considerations on the capacity of the Programme's activities to generate long-lasting effects, the information collected through the mapping exercise allowed for a comparison between the typology of training offers provided by national bodies and through the Programme. Only a few countries have a structured offer of training in EU competition law[280]. In most cases, the Programme's offer is the main driver for the generation of knowledge in this field and has promoted the organisation of activities though several years. In terms of sustainability, the cooperation and capacity building of national authorities represents an important dimension to focus on, since it would ensure a more solid basis for the promotion of similar training activities and the consolidation of an EU competition law culture even in the event of no Programme support in this field. In this respect, a key role of the Programme relates once again to its function to increase the focus and relevance of EU competition law knowledge, cooperation and training as a priority in the national context.[281]

4.7. Programme monitoring system and performance indicators

Monitoring is the process of observing whether the intended outputs are delivered and implementation is on track.[282] The intervention logic is the reference framework against which the objectives, activities and related intended effects/changes are established. The indicators that reflect and summarise these items constitute one of the reference tools for the programme monitoring activities and performance analysis. Best practices from other EU supported fields show that monitoring should focus on support to projects on their results and quality. This means that efficient monitoring by programme managers is to provide guidance to beneficiaries and to collect the necessary information, without getting lost in details.[283]

To guarantee such clarity, a clear communication on the intended results at a programme level is necessary. This needs to be then translated into individual objectives for projects. The monitoring system consequently needs to assess whether

[277] *Based on the analysis of projects, interviews with training providers and the focus group in Scandicci*
[278] *Interview with a training provider.*
[279] *Based on interviews with training providers and the focus groups in Lisbon and Scandicci*
[280] *See mapping exercise in chapter 3*
[281] *Based on the mapping exercise and interviews with training providers*
[282] *European Commission, DG Regio (2015): Guidance document on Monitoring and Evaluation*
[283] *INTERact (2014): Best Practices of Programme Management*

or not these objectives are being sufficiently fulfilled. Bringing then the individual observations together at the programme level provides the basis for regular evaluation of the programme.

There is no "one-size-fits-all" monitoring system that can be applied to all (legal) training programmes of the European Commission, as each monitoring system needs to be adapted to the specific intervention logic and design of the programme. Other monitoring systems, and the evaluations of such, can serve as benchmark for the analysis of the Programme monitoring system currently in place. Therefore, different experiences in other programmes are used as a benchmark for evaluation.

4.7.1 The monitoring system of the current Programme

Looking into the main monitoring tools of the Programme, according to Programme managers they mainly corresponded to:

- Ongoing communication with project beneficiaries through e-mails or phone calls;
- On the spot visits, to advise project beneficiaries and assist them in project delivery;
- Production of a project final report, providing information on the activities realised in comparison with what was suggested at the application stage (no production of interim reports). These reports may also include evaluation forms from training participants, collected by Programme beneficiaries;
- Provision of a few specific performance indicators.[284]

Based on consultations with both Programme managers and beneficiaries, ongoing communication is a key activity that allows close follow-up of the training activities in their different stages, from organisation to delivery and reporting, since it provides the Programme managers with relevant qualitative information on the state of the art and evolutions of the different activities. Nonetheless, this communication does not happen according to structured rules or templates, and the emails' archive is the main tool to track the information collected. Used as in internal tool, it is covering a primarily organisational and managerial function, but does not provide for sufficiently structured bases that can be used for reporting purposes to third parties. While acknowledging the good functioning of these channels, the evaluator also observes the need for more structured procedures allowing for a simple information flow and reporting beyond the Programme managers and beneficiaries directly involved in the organisation and delivery of the activities.[285]

A complementary and useful monitoring tool and source of information are the on-the-spot visits, which allow for a closer follow-up of a number of selected activities and the direct interaction and provision of specific guidance by Programme managers. If these activities can be considered as efficient (despite a certain reporting burden for beneficiaries) and effective, allowing for a close follow-up of the Programme activities by the Programme managers, on the other hand the procedures for the visits (i.e. selection criteria of the projects to be visited, related reporting templates, etc.) are not clearly structured.[286]

[284] *Based on interviews with the Programme managers*
[285] *Based on interviews with Programme managers and training providers*
[286] *Based on interviews with Programme managers*

Although effective, these monitoring activities seem to have a non-structured and in some occasions informal nature.

This approach has demonstrated to be useful in a practical sense to provide immediate support and guidance to beneficiaries and it has allowed Programme managers to be close to the content and therefore have a substantiated qualitative information base on the progress of the activities. Nonetheless, it does not allow for an easy transferability of information to other stakeholders, meaning that the information is mainly retained by the individuals acting as Programme managers, but is not easy to consult by external staff. This can represent a challenge in case changes in the organisational or human resources setting and allocation occurred.

For these reasons, the evaluators recommend the use of structured tools that also serve for transparency, accountability and reporting functions, allowing for a clear understanding of the state of the art of the different activities promoted by the Programme beneficiaries. The use of more structured communication mechanisms and their translation into homogeneous templates and indicators would allow to translate some of the qualitatively available information into comparable quantifiable figures. This would increase the comparability between projects and the follow-up of each project evolution over time. Similarly, it would contribute to reduce the pressure on individual persons involved in Programme management activities.

While referring to structured information, it is important to stress that the Programme has promoted the collection of homogeneous information at a beneficiary level. This is limited to a few indicators which (apart from the provision of financial proofs at the end of a project) consist of:

- Number of beneficiaries per Member State;
- Expenditure per beneficiary;
- Number of participants per beneficiary;
- Nationality of participants; and, in some occasions
- Profession of participants.[287]

As far as the already existing indicators are concerned, the evaluators acknowledge that some progress has been made in terms of reporting over time, but the set-up is still limited to very few quantitative output indicators. These indicators allow to understand the geographical developments of the provision of training, the Programme applicants and beneficiaries, as well as the number and nationality of the participants to the Programme activities. Nevertheless, they have a first limitation, related to the lack of baseline data and target objectives, hindering the feasibility of further efficiency and effectiveness analyses[288]. Moreover, they do not allow tracking of individuals over time, or to understand the reasons of the geographical participation in the Programme. Furthermore, the data available until present are not comprehensive and provide estimates of the amount of participants to training, and only in some occasions real figures. Related to this, the informative capacity of the indicators stop at the level of the expected number of participants (participation of a person in a training/training session), but does not allow the tracking of individuals. Quantification about how many individuals are exactly behind the 7,000 participations thus does not exist.

The use of these indicators is not to be questioned; nevertheless they need to be complemented with further tools as their information capacity mainly stays at an

[287] *Based on the calls for proposal and the interviews with Programme managers*
[288] *Aspect to be further analysed as part of the final report.*

output level, while it does not reflect more detailed aspects related to the quality and characteristics of the training offer (tools used, time spent, size of the training, quality of participants and speakers), its efficiency and its effectiveness. In addition, they should be part of a more comprehensive monitoring system reflecting also the complementary qualitative information which is collected by the Programme.

An important effort to be promoted by the Programme mainly relates to the information chain from a disaggregated level, starting from feedback from single participants, to a beneficiary and an overall Programme level, in an aggregated form.

Information needs to be **primarily collected by beneficiaries**. Through the different editions of the Programme, most beneficiaries have been monitoring their training offer using internal tools[289]. Despite collecting similar information, they however do not collect it in a coherent form or do not report about it. Depending on the indicator, information will need to be collected at different moments of the project life cycle. Those about targets etc. should be already included in the application. Participation and performance indicators can be collected throughout the project (participants' lists, financial data etc.). Evaluation data has to be collected after trainings have been completed.

An example for indicators better describing other aspects of the training and participants which could improve the monitoring system are shown in the DG JUST (2015) report[290].

The report makes use of indicators such as:

- Length of continuous training;
- Length of initial training;
- Number of training topics;
- Size of training groups;
- Judges participating in continuous training activities.

The section below provides a more detailed analysis of potential complementary indicators and a reflection on their utility to assess the programme performance.

4.7.2 Monitoring processes and indicators

To assess the performance of beneficiaries and to ensure a follow-up of the activities, **different tools** can be used **at various moments in time**. Classically, the majority of information is compiled by project managers (e.g. managers of a training project) at the end of an assignment and handed over to the programme manager in a (previously) defined structure.[291] This is logic as a lot of information to judge the final success or failure of a project can only be collected at the end of the project. There are however also interesting complementary information collection efforts which should be taken into account at an earlier stage of each project, for example before or during a project which can help monitor milestones, flag up possible deviations from the expected results and compare intermediate and final outcomes with expectations and targets.

[289] *Based on interviews with training providers*
[290] *European Commission, DG Justice (2015): European judicial training 2015.*
[291] *Based on interviews with training providers, Programme managers and the comparison with other programmes*

Information collection for monitoring purposes can be conducted in various forms: legal (or voluntary) obligation for information (on e.g. data collection, feedback questionnaires etc.), (in)official ongoing or milestone communication (this can be in written form or in the form of calls or meetings), visits to beneficiaries etc. Consequently, some tools provide quantitative and other qualitative information. The best format chosen for monitoring depends on the organisational structure of the programme. The key factor of importance is to define a reasonable number of (quantitative or qualitative) indicators which are as precise as possible and can be collected, to understand progress and performance of individual projects and overall programmes.

In this respect, the EU Regulation No 1382/2013 includes a basis for indicators for the Justice Programme for the period 2014 to 2020. The aim described is that indicators *shall serve as a basis for monitoring and evaluating the extent to which each of the Programme's specific objectives … has been achieved"*[292] and *"shall be measured against pre-defined baselines reflecting the situation before implementation. Where relevant, indicators shall be broken down by, inter alia, sex, age and disability."*[293]

Given the limited system of indicators used for the Training of National Judges Programme, the list included in Regulation No 1382/2013[294] can serve as a baseline to assess the possible integration of performance indicators in the Programme management and monitoring processes in the next editions of the Programme and as a benchmark for comparison with the indicators that are currently in use in the Programme. The following table provides an overview of key instructions on indicators listed and a judgement of the evaluators in terms of relevance and feasibility of the indicators for the DG COMP Training of National Judges in EU Competition Law Programme.

Indicators listed under Regulation No 1382/2013 Art. 15	**Benchmark and possible transferability to the Training of National Judges Programme**
(a) the number and percentage of persons in a target group reached by awareness-raising activities funded by the Programme;	- Difficult to translate into a clear indicator; - Target group are judges, but so far the specific type of judge is not specified (either specialised or not); - The measurement of the outreach of these activities would need to be based mainly on estimates in terms of potential audience, with the related consequences in terms of relevance of the collected information
(b) the number and percentage of members of the judiciary and judicial staff in a target group that participated in training activities, staff exchanges, study visits, workshops and seminars funded by the Programme;	- The number of participants can and should be collected; - A fundamental step for the establishment of such an indicator is a clear definition of the target group, its composition and possible eligibility criteria.

[292] *REGULATION (EU) No 1382/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a Justice Programme for the period 2014 to 2020, Art. 15.*
[293] *REGULATION (EU) No 1382/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a Justice Programme for the period 2014 to 2020, Art. 15.*
[294] *REGULATION (EU) No 1382/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a Justice Programme for the period 2014 to 2020, Art. 15.*

(c) the improvement in the level of knowledge of Union law and policies in the groups participating in activities funded by the Programme compared to the entire target group;	- An indicator to assess the effectiveness of a programme is necessary, but for feasibility and efficiency reasons a qualitative indicator (scale of perception of improvement) should be adopted; - Two main ways to collect information on perceived improvements consist of: o Testing knowledge before and after the training; o Relying on self-assessment; - The second option would be the most relevant in the Programme framework: the use of a common ex-post assessment form of activities to be filled in by participants would represent a useful method to collect such qualitative information, that would need to be expressed in scales/degrees and % of responses per scale.
(d) the number of cases, activities and outputs of cross-border cooperation, including cooperation by means of information technology tools and procedures established at Union level;	- Output indicator, it refers to collectable information at a programme level; - Need for a clear definition/clustering of typologies of activities as well as to capture their magnitude in terms of outreach/number of participants.
(e) participants' assessment of the activities in which they participated and of their (expected) sustainability;	- Making use of the participants' perception is a crucial tool, allowing the construction of a qualitative indicator based on scales of perception; - As above, possibility to rely on a common ex-post assessment form of activities to be filled in by participants to collect such qualitative information.
(f) the geographical coverage of the activities funded by the Programme.	- It can be defined in terms of: o Location of activities o Origin of participants; - This information needs to be put in relation with complementary events on the spot and with substitutive offers in order to allow to identify the possible added value, relevance and risk of duplication of the activities.

In addition to the list above, further indicators are set out in the regulation for interim and ex-post evaluation.

Indicators listed under Regulation No 1382/2013 Art. 15	**Comment from the evaluators**
(a) the perceived impact of the Programme on access to justice based on qualitative and quantitative data collected at European level;	- This instruction could refer to the possibility of establishing common indicators at EU level to capture the overall impact of the training activities and initiatives in the judicial field promoted by the European Commission.
(b) the number and	- Output/result indicator that could be developed and

quality of instruments and tools developed through actions funded by the Programme;	would require the previous definition/clustering of the main typologies of instruments, tools and outputs to be produced by the Programme; - A qualitative measurement of the quality of instruments implies higher methodological difficulties given its qualitative nature. As above, possibility to rely on a common ex-post assessment form of activities to be filled in by participants to collect such qualitative information.
(c) the European added value of the Programme, including an evaluation of the Programme's activities in the light of similar initiatives which have been developed at national or European level without support from Union funding, and their (expected) results and the advantages and/or disadvantages of Union funding compared to national funding for the type of activity in question;	- Measuring the European added value is important, but not always a simple exercise. No individual indicator will provide a clear and comprehensive answer and the collection of the related information can be burdensome; - Possibility to rely on a common ex-post assessment form of activities to be filled in by participants to collect such qualitative information. Nonetheless, existence of risk for biased answers; - Another source of information could be judicial schools in the countries, but the diversity of the national settings would imply also in this case to rely on perceptions; - A relevant source of information would be the perception/assessment of the Programme beneficiaries (training providers).
(d) the level of funding in relation to the outcomes achieved (efficiency);	- Indicators such as funding/hour of training or simply funding/person trained can assist the judgement on efficiency. They do however miss a qualitative element; - Qualitative indicators to be added are the subjective impressions of participants; - Further input can be provided through before/after testing of participants, to judge their improvement and to bring this into relation with the investment.
(e) the possible administrative, organisational and/or structural obstacles to the smoother, more effective and efficient implementation of the Programme (scope for simplification).	- Need for a previous definition/clustering of the main typologies of obstacles; - A relevant source of information would be the perception/assessment of the Programme beneficiaries (training providers)

4.7.3 Tools for performance assessment

At present, the main tool to report the information at a beneficiary level is provided **by the projects' final report template**[295], which represents a reference framework to gather a comprehensive qualitative and quantitative picture of the projects. This is a useful tool to provide clear guidance on what needs to be collected and how. However,

[295] *Based on the project analysis and interviews with Programme managers and training providers*

the reporting requirements as per the template are not associated to a systematic collection of the related information in a comprehensive database. In this respect, relevant indicators could be formulated to cover different aspects of the narrative technical report[296], such as

- the objectives at the moment of application;
- the expected results and impact at the moment of application;
- the objectives achieved;
- the number and nationalities of participants;
- feedback from participants; difficulties encountered during the implementation;
- project results and/or products; and
- other relevant points that may complement this information (to be identified in further evaluation activities for the final report).

Additional information could also refer to the relevance and effects of the Programme in order to allow for more systematic assessments of the Programme's performance. In this case, the main source of information will be the training participants.

Two main options for the collection of that information consist of: (a) testing judges' knowledge and (b) using feedback forms. Both solutions may present some limitations and challenges, mainly related to aspects such as: self-assessment of learning; the practice of skills testing and its possible interference with the independence of the judiciary; data protection issues; response rates when it comes to feedback from training participants, and the duration of projects as a challenge for the assessment of longer-term effects, among others.[297]

Option a: knowledge testing

An option to monitor the Programme's performance would be to test participants' knowledge before and after training. While such an activity would provide a clear indication on the value of a training and could allow to infer on the causality of the European Commission's investments in training, it implies some operational and administrative issues mainly related to:

- The absence of a "one-size-fits-all test": therefore specific tests for different types of trainings would need to be developed;
- The independence of the judicial system: judges may not be willing to attend knowledge tests due to their independence;
- The supervision of the tests: supervision of the testing processes by the Commission demands extra attendance and may not be possible to be organised;
- The moment of testing: the moment of testing may be crucial for the outcome. If done immediately after a training, the results are expected to be better than if tests are taking place at a later stage. This however excludes the judgement of sustainability of the Programme.[298]

This said, testing is seen by the evaluators as an option with low feasibility of being introduced. A more efficient approach to provide evidence not only on the acquired knowledge, but also on the relevance, effectiveness, efficiency and sustainability of the training are **feedback forms**. These can be also used at different stages of the project (before, interim, after). Most beneficiaries already use such feedback forms.

[296] *http://ec.europa.eu/competition/court/template_final_reports_en.docx*
[297] *Based on interviews with training providers, Programme managers and the Expert Panel*
[298] *Based on interviews with training providers, Programme managers and the Expert Panel*

They are however structured in an inconsistent way and have not been compulsory for most years of the programme.

Option b: feedback forms

In the 2014 edition, the Programme introduced a template to be used for training evaluations.[299] The use of homogeneous tools and templates for the collection of relevant information by all Programme beneficiaries and its translation into indicators (according to a criterion of standardisation) strongly supports the evaluability of the Programme since it allows for further analyses in terms of efficiency and effectiveness, in comparative, aggregate and longitudinal terms at a project and Programme level.

The template should be conceived of as a reference questionnaire to be used by each Programme beneficiary and to be aligned with the Programme monitoring and indicators system to be used in the future. However, given the specificities and diversity of the activities provided through the Programme, the questionnaire could be complemented with additional questions if the training providers considered it necessary for a more detailed assessment of their activities.[300] The structure of the evaluation template should be applied consistently across training providers, but also across years to guarantee comparability of the results. This requires a good balancing act between updating and improving questionnaires and providing a consistent layout for data collection. We suggest therefore to adjust only where necessary and if changes (apart from extensions of the questionnaire) are made, they should be drafted in the best possible comparative way with respect to the original version. A suggestion of a draft evaluation form template is included in Table 3 below.

Table 4.3. – Suggestion for the training evaluation questionnaire

Section	Questions	Answer options
PARTICIPANT'S INFORMATION	Name and surname	Open answer
	Profession	Select from list: - Judge - Prosecutor - Judicial court staff - Lawyer in private practice - Competition authority member or staff - Academic - Other, please specify: …
	Institution	Open answer
	E-mail address	Open answer
	Country of work	Open answer
	Training provider	To be filled by training provider
	Have you every participated in other training programmes in EU competition law?	Selection: - Yes, 1 - Yes, more than 1 - No If yes: which ones? …
	Number of years you have been dealing with competition law	Select from list: - 0 - 5 - 6 - 10 - 11 - 15 - 16 - 20 - 21 - 30 - 30 +

[299] *See calls for proposal 2014*
[300] *This would leave training providers the necessary freedom partially requested in interviews*

DISSEMINATION	How did you hear about the existence of this training?	Selection from list: - Personal recommendation - EC website - Information from training provider - Information from national institutions - Through the organisation I work for - Through my professional organisation/ association - Other, please specify: …
	To what extent do you believe this training was well advertised?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
GENERAL ASSESSMENT OF THE EVENT	Overall, are you satisfied with this training?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
	How would you rate the contents of this training?	Selection: - Too generic - Generic - Balanced - Specialised - Too specialised
	How would you rate the speakers?	Scale: - Very poor - Poor - Good - Very good
	How would you rate the length of the training?	Selection: - Too long - Long - Balanced - Short - Too short
NEEDS ASSESSMENT	What was your knowledge of EU competition law before attending this training?	Selection: - Very specialised - Specialised - Basic knowledge - No knowledge
	To what extent is the knowledge of EU competition law relevant for your judicial functions?	Scale: - Very relevant - Relevant - Partially relevant - Not relevant
	Approximately, in the course of a year how much of your caseload involves EU competition law?	Selection ranges: - 0-10% - 11-25% - 26-50% - 51-75% - 76% +
	What was the main reason for participating in this training?	Selection from list: - Networking - Acquiring knowledge - Personal experience - Language skills - Other: please specify: … Comment: …

COHERENCE	To what extent is this training complementary to other training offered by organisations in your country?	Selection: - Completely separated - Complementary - Duplicating - No training in competition law are offered in my country Comment: …
EFFECTIVENESS	To what extent has this training improved your knowledge in EU competition law?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
	To what extent has this training improved your skills to handle cases involving EU competition law?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
	To what extent has your professional network been strengthened thanks to this training?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
	To what extent have your legal linguistic skills been strengthened thanks to this training?	Scale: - Not at all - To a limited extent - To a good extent - To a very good extent
	How would you rate the effectiveness of the methods used in the training?	Scale for each relevant element (from 1=not effective to 5=very effective): - Seminars - Workshops - E-learning - Case analysis - Face-to-face training - Practical sessions - Q&A - Networking and group sessions - Other: …
	Would you participate in other similar training actions?	Selection: - Yes - No Comment: …
	What were the main strengths of this training?	Selection: - The training focused on theoretical aspects - The training focused on practical and operational aspects - The training ensured a good balance between theory and practice - The training provided opportunity for networking - The contents of the training were broad, allowing me to familiarise with the subject - The contents of the training were specialised and provided relevant advanced information - The training covered both legal and economic issues related to competition law - The training supported the creation of (further) knowledge in competition law as a whole - The training supported the creation of (further) knowledge in specific areas of competition law - The training broadened and updated my knowledge of the latest developments in competition law - The profile of teachers was high - The training method used by the teachers was motivating - The profile of the participants was high - The training was well tailored to the participants' knowledge base - The training was held/interpreted in my mother tongue

		- The training offered me the choice to gain knowledge in the specific legal language terminology of EU competition law in my own language - The training offered me the choice to gain knowledge in the specific legal language terminology of EU competition law in a foreign language - The training allowed me to get to know the legal practice of competition law of other EU jurisdictions - Other, please specify: … - None of the above
	What were the main weaknesses of this training?	Selection: - The training was too short - The training was too long - The training lacked theoretical focus - The training lacked practical focus - The training was not targeted to the participants' profiles/knowledge base - The other participants were more prepared than me in the subject - The other participants were less prepared than me in the subject - The knowledge of the teachers was not satisfactory - The training methodology of the teachers was not satisfactory - The training only focused on legal matters - The training focused on economic matters - The training content differed from what I expected - The training was too broad and basic - The training was too specialised and focused - The training was not held in my mother tongue - The training did not deal with the specificities of competition law application in my own Member state - The training dealt too often with particularities relevant only for one Member state - Other, please specify: … - None of the above
	Do you have suggestions on how to improve this programme in the future?	Open answer

Note: the questions on strengths and weaknesses include a long list of options in order to allow for the comparability and aggregation on results. As an alternative, these questions could be included in an open format, but the collected responses: (a) could be limited given the open nature of the questions, and (b) would not be "ready-to-use", needing for some ex-post categorisation efforts in order to allow for further cross- and longitudinal analyses and comparisons.

Source: Ecorys

5. Conclusions and recommendations

5.1. Judges' training needs in the field of EU competition law

Area	Conclusions	Recommendations

Public enforcement	▪ Judges dealing with the public enforcement of EU competition law can be sub-divided into:
	  ▪ those (usually in a single specific court) dealing with the judicial review of national competition authority decisions and
	  ▪ those (in a small number of Member States) dealing with criminal sanctions for the breach of competition law.
	
	▪ The number of judges responsible for the judicial review of NCA decisions is relatively small. These judges not only deal more frequently with competition cases than those facing private enforcement or State aid cases, they are also more likely to have received training on EU competition law and even have better English-language skills.
	
	▪ Nevertheless, judges with experience of judicial review of NCA decisions who responded to the survey said that EU competition law cases constituted less than 25% of their annual caseload.
	
	▪ In some countries, breach of competition law can trigger criminal liability which will be judged by criminal courts.
		▪ Given the small number and specific situation of judges who deal with public enforcement, training programmes should be designed to respond to their specific needs.
		
		▪ Furthermore, given that (despite specialisation) EU competition law might not be judges' top training priority in light of their total caseload, programmes aiming to strengthen their competition law skills should also be useful in other relevant areas.
		
		▪ Existing opportunities for judges to network or participate in joint training and cross-border exchanges focused on EU competition law should be expanded for this limited target group.
		
		▪ Depending on their role in the public enforcement of competition law in some Member States, criminal judges and public prosecutors should also be considered as target groups for competition law training.

Private enforcement	▪ Judges dealing with the private enforcement of EU competition law can be sub-divided into: ▪ those in jurisdictions in which competence is concentrated on selected courts; ▪ those in jurisdictions where such actions may be brought in the general civil courts. ▪ Given that in many jurisdictions no specialisation or concentration of competence exists, the number of judges potentially faced with a private action relating to EU competition law remains significantly higher than the number dealing with public enforcement. ▪ Conversely, given the comparatively lower number of private enforcement cases and the higher number of potentially competent judges, in most Member States the likelihood of trying such cases is rather low.	▪ Training programmes for judges in courts with concentrated or specialised competence for private actions involving EU competition law should be targeted with the same attention to their specific needs as for judges dealing with public enforcement. ▪ These specialised judges should also be given the same opportunities to network and participate in joint training and exchanges as their counterparts dealing with public enforcement. ▪ As for judges in general civil courts, given the limited probability of ever having to try a competition case, it will be necessary to motivate them to undergo competition law training. The imminent implementation of the Damages Directive should provide such an incentive.
State aid	▪ It is often difficult to predict in which court an action concerning State aid may appear. There are few special provisions for such actions in Member States' national laws. In jurisdictions with a clear distinction between administrative and civil justice, administrative courts will in principle be competent for actions against State bodies but cases between competitors or involving civil-law instruments may be brought before the civil courts. ▪ Given that in many Member States no or very few State aid cases have been brought to the courts, judges have	▪ Judges dealing with State aid cases should not be considered as a single target group but as two or more: ▪ judges in administrative courts and other judges dealing with actions against State bodies, ▪ judges in civil courts who could potentially deal with actions for damages or cases involving civil-law instruments, ▪ judges in tax courts, where they differ from the administrative courts already mentioned

	developed little expertise and specialisation.	
Specialisation as key to training needs	▪ There is a strong connection between the degree of specialisation and the level of knowledge. Judges who describe their court or chamber as partly or exclusively specialised in EU competition law report higher levels of knowledge both in terms of EU law in general and of EU competition law in particular. ▪ Demand for training is highest among specialised judges. ▪ Specialisation allows training to be better targeted and thus more efficient.	▪ Training should be selective, distinguishing between basic training and specialised training in EU competition law. ▪ The latter should take the form, for example, of advanced training (which could include training in economics) or training in specific areas (for example quantification of damages for breach of competition law).
Training profiles	The following training profiles have been identified on the basis of objective needs and demand: 1. First-instance judges in charge of reviewing NCA decisions 2. Higher-instance judges in charge of reviewing NCA decisions 3. Judges applying criminal sanctions for breaches of competition law 4. Specialised judges dealing with private enforcement 5. Non-specialised judges dealing with private enforcement 6. Judges dealing with State aid-related cases	▪ Given the public-policy character of EU competition law, an adequate and adapted training offer should be made available for all judges called to try cases with a potential general impact on competition policy. This applies in the first instance to profiles 1 and 2, but can also be relevant for profiles 4 to 6. ▪ Specialised judges (profiles 1, 2 and 4) should be encouraged to deepen their skills and expertise on the basis of specific targeted programmes. ▪ For non-specialised judges (profiles 3, 5 and 6), the only efficient training concept consists of the provision of basic training tools on demand.
Language skills	▪ Judges answering the survey see the language of a training programme as the second most important factor (out of ten) for choosing it, superseded only by the subject matter itself.	▪ English can and should be used as the only language of a programme but only when a lingua franca is required, e.g. for networking, exchanges or cross-border training programmes.

	▪ English is a good lingua franca only for certain judges hearing competition law cases. While judges dealing with public enforcement of competition law and State aid cases report relatively high levels of English-language skills, a third of non-specialised judges (who are most likely to hear private actions) say they have no or only basic English. ▪ Judges working with the national system of competition law, applying EU law through the national system, often feel that the proper command of competition law terminology in the national language is therefore required.	▪ Training programmes or other resources designed to be used on an on-demand basis and targeted at judges who have little regular contact with EU competition law (in particular those dealing with private enforcement in non-specialised courts and most of those dealing with State aid) should be available in local languages. ▪ Language training in English and specifically competition-law English should be focused on the small number of judges who deal with EU competition law relatively regularly and do not have adequate English-language skills.
Training opportunities and preferences	▪ In many Member States, the only training opportunities for judges in EU competition or State aid law are provided with financial support from the European Commission. ▪ European-level training institutes, national judicial training providers and universities, which have been frequent beneficiaries of the funding Programme, have so far played an important role in providing this training. ▪ The majority of survey respondents say that they would like more training on EU competition law. Demand is much stronger among specialised than non-specialised judges, but there is no significant variation depending on whether the respondents deal with public enforcement, private enforcement or State aid. ▪ Judges dealing with public	▪ As the major source of funding in this field, the “Training of National Judges” programme should set out a clearer plan for the training it will support. The risk of inefficiencies in the current approach due to duplication of basic or similar training programmes should be avoided. ▪ Programmes could be more selective and target particular groups of judges who may need specific training on certain parts of competition with problem-solving or case management at the heart of the training. ▪ Purely academic training in competition law should not be seen as an appropriate way to train judges. ▪ Training on procedural aspects should be seen as important as in substantive law (both basic law and updates), necessitating an integrated

	enforcement express more interest in training on the definition of markets, whereas those handling private actions are more interested in the quantification of damages. ▪ Bringing judges together from different jurisdictions is considered an important added value. Involving other professionals in the training is also seen favourably. ▪ Less than a third of respondents to the survey had used distance-learning but over half expressed interest in doing so. Contrary to common assumptions, there was only a minor correlation between the age of respondents and their enthusiasm for e-learning.	approach focusing upon national procedural aspects. ▪ New training formats involving other professionals or even mixed trainings should be explored, keeping in mind the necessary respect for confidentiality and judicial impartiality. ▪ Given the unpredictable exposure of non-specialised judges to EU competition law, online training programmes "on demand" should be considered as a more efficient method of meeting their training needs than face-to-face programmes of which they may never make use. Such programmes should be available in local languages and not only in English.

5.2. Evaluation of the "Training of National Judges" programme

Criterion	Conclusions	Recommendations
Relevance	▪ The intervention logic of the Programme, launched in 2002, has evolved over time in order to adapt to the European and national contexts. However, the Programme was not generated from a thorough needs analysis. On-going refinements of priorities of selection and a further shift towards higher priorities and details can be observed in the evolution of the Programme over time. ▪ In absolute terms the Programme is considered to be relevant. There is a demand for training programmes for judges in EU competition law to improve	▪ The Programme documents, from its formulation to the different tools for project generation, monitoring, implementation and evaluation, should be based on a coherent approach emerging from the theory of change, relating the existing needs to a number of concrete objectives, actions and intended changes. ▪ Whilst recognising the increasing prevision in the definition of the Programme objectives over time, it is recommended to maintain/strengthen the orientation of the calls for proposals towards a tailored approach (particularly the case for more basic/general training). This would contribute to avoid scattered interventions and to

	the knowledge about the subject matter and related case management. Nonetheless, in relative terms, EU competition law is less of a priority when compared to other areas of law. ▪ The Commission can be described as "enabler" (from both a financial and institutional support perspective) for the provision of training activities related to EU competition law. Complementarily, the Programme is also contributing to raise awareness on the relevance of EU competition law among the key actors in this field. ▪ The Programme addresses exclusively judicial actors, including mainly judges, but also judicial prosecutors and judicial court staff. This means that other professions, such as lawyers or consumer bodies, are currently not part of the target group of the Programme. Their involvement in the Programme activities with a different role than beneficiaries could enrich the training offer. ▪ The Programme has proved to be a relevant source of training related to both general and specialised knowledge.	ensure coordination and stronger concentration of the Programme's activities, with the aim to ensure concrete and homogeneous results across projects and at a Programme level. Similarly, it would contribute to creating a critical mass in terms of human capital development throughout Europe. ▪ In order not to lose the added value deriving from the meeting and exchanges with other professionals, it is recommended to maintain the delimitation of the target group as it is now and not to include other categories of beneficiaries. In order to enrich the training offer, it is recommended to involve other actors in complementary (but separate) activities within the training, such as specific sessions and concrete cases providing information from different viewpoints and professional positions ▪ It is important to take into account the principle of specialisation in the judicial profession and to keep a balance between the provision of general knowledge to a large target group and the provision of specialised knowledge to a selected target group. In general terms, training should be adapted to the specific stakeholders' needs. It should be considered to link the selection of the financing source to the level of specialisation (see recommendations under the "efficiency" criterion).
Effectiveness	▪ The Programme has supported about 7,000 participations in training in the field. Despite the impossibility of the task to bring these numbers into relation with the exact size of the core relevant target	▪ *Recommendation related also to the relevance criterion:* In order to ensure an effective coverage of the different European Member States, it is recommended that the Programme does not only rely on the proposals received by

	populations for the Programme, the mapping exercise and the evaluation show that it is ensuring a satisfactory level of coverage of the target population. Nonetheless, important imbalances exist in terms of participation figures by country. ▪ The four main objectives of the Programme are being met satisfactorily, but the effectiveness of the activities depends on the approaches used and on the aim for continuation and sustainability of the results.	applicants, but also considers the option to target specific countries, themes or target groups. Such targets need to be defined on the basis of: lack of EU-supported or national offerings and existing demand. For this reason, it is recommended to use the mapping exercise of the existing national training offers as an evolving reference tool. This type of information could be requested from applicants as part of the application process. ▪ In order to boost the effectiveness of the actions, it is recommended to: ▪ Involve relevant actors (i.e. national judicial training institutions and professional associations) in the provision of the training; ▪ Promote integrated actions and participatory approaches, especially when the focus is put on networking activities and developing practical tools; ▪ Boost approaches such as: integrated activities, with an extensive geographical presence and structured around different sessions; combination of theoretical and practical approaches; interactive and participatory methods; selection of participants according to their specialisation levels; involvement of high-level trainers and facilitators, also able to boost participation; and proactive involvement of participants during and beyond the training activities.
Efficiency	▪ In general terms, the use of resources by the Programme can be considered as positive and efficient. ▪ The evolution of the project	▪ If continuing with a pure grant system, the Programme should ensure stronger competition (currently not the case) between applicants and provide mechanisms to steer the

	selection criteria over time poses the question of the best possible approach for beneficiaries' selection. ▪ While comparing the Programme's cost-efficiency with the national training provision, training providers stressed that the international character of training could have not been ensured through national funding. The cost-effectiveness of the Programme has been confirmed, especially in relation to the possibility to cover the international component.	application and project generation process through the establishment of more specific eligibility and selection criteria, covering specific aspects (i.e. thematic approaches, geographical scope of the interventions, profile and expertise of the applicants…).Alternatively the introduction of a procurement system should be considered. Given that both systems have their advantages and disadvantages (see table 4.2) the suggested option is to make use of a mixed system (see point below). ▪ *Recommendation related also to the relevance criterion:* It is recommended to adopt a mixed approach combining grants and public procurement. This would allow the Commission to maximise the efficiency and effectiveness of the available funding, according to the typologies of actors and related profiles and training needs. Taking into account the profiles identified in this study, the following is suggested: **Public enforcement**: Profile 1: First-instance judges dealing with public enforcement: both public procurement and grants could be effective. Given its small size, the needs and priorities of this group can be easily identified and a targeted procurement procedure could be used to fund a training programme that meets them; on the other hand, the specific and advanced nature of those training needs might be better served by an open grant system allowing multiple providers to meet different needs. The use of a grants system is therefore seen as the

		more cost-efficient system (as it requires co-financing of other parties). Profile 2: Higher-instance judges dealing with public enforcement: Unless they are assigned to specialised divisions allowing them to accumulate an ever-increasing expertise over sometimes long phases of their professional career, the likelihood for them to face public enforcement cases is low and their specialisation limited, so that competition law training will be a lower priority for these judges than for first-instance judges. A procurement system using a framework contract to intervene where necessary is a possible option for the European Commission. This implies, however, that the EC is able to identify an upcoming need for this target group. If not able to do so, a grants system leaving the possibility to identify ad-hoc needs on the ground is seen as more favourable. Profile 3: Judges handling criminal sanctions: in the few Member States where competition infringements are criminal offences, judges in criminal courts may be faced (rarely) with such cases, but there is no specialisation. Ensuring the availability of on-demand training resources through public procurement could help them as and when they need support. Again this system is only functional if sufficient awareness on the part of the EC of national demand is given. The mapping exercise in this report is a basis for such awareness.

		Private enforcement Profile 4: Specialised judges dealing with private enforcement: it is recommended to adopt either a procurement programme or a grant system ensuring that a common level of training is available to all judges across the jurisdictions concerned. Training should be provided locally, in local languages, and with a clear connection to national procedural law, perhaps in combination with training in other relevant fields. Profile 5: Non-specialised judges dealing with private enforcement: while they should have access to training programmes provided for group 2.a), they would be better served by ensuring on-demand training resources in local languages through public procurement, to help them as and when they need it. **State aid** Profile 6: (a) Administrative judges: since there is little specialisation of courts, the training needs cannot be anticipated easily in advance. This group would be best served by a training programme funded by procurement, as for 2.a). Alternatively if the EC is not able to identify changing needs in specific Member States, a bottom-up grants system could be more efficient for this group. (b) Other judges: for the remaining Member States, it is not possible to target the judges who may be faced with State aid cases efficiently so they would be better served by

		ensuring the availability of on-demand training resources through procurement to help them as and when they need it. Similarly to point 3.a) this system only works if the EC is sufficiently aware of changing demand.
Coherence and complementarity	▪ The Programme is complementary to other training offered at national and EU level, where such offer exists. There is little or no problem of overlap with national training programmes, since in most Member States the Programme has proved to be the only source of training opportunities for judges in this field. Delimitation with the DG JUSTICE programme has been confirmed. ▪ The visibility of training for judges in competition law is increased by a clear separation of themes and competences, which becomes especially relevant if the DG COMP Programme has the role to raise awareness and steer the demand of national actors for knowledge in this field. Nonetheless, strong complementarities and synergies could exist with the DG JUSTICE programmes. ▪ The non-eligibility of Danish judges under the Programme despite Denmark's full participation in the EU competition policy has been counterproductive. In the future, this problem will be aggravated by the non-participation of the UK in the Justice Programme which is the funding basis also for this Programme.	▪ In order to continue fostering complementarity and coordination at a national level, it is recommended to involve key national and regional actors in the EU competition law training provision. ▪ Despite recognising the value of maintaining the Programme as a separate initiative from other training funded by the European Commission, the adoption of similar frameworks between the Training of National Judges and DG JUSTICE Programmes could be considered as a more flexible option to tackle the existing training needs through more flexible thematic approaches and selections. ▪ Given the full participation of Denmark and the United Kingdom in the EU competition policy and their non-participation in the Justice Programme, a separate budget line for the Competition Programme should be created to make it also accessible to judges from these countries.

EU added value	▪ According to all consultees, the organisation of the Programme at the European level has an indisputable added value when compared to what could be achieved by Member States at a national or sub-national level. This becomes even more relevant when considering that in most Member States there is no relevant training on offer apart from the one provided through the Programme. ▪ While comparing the Programme's cost-efficiency with the national training provision, training providers stressed that the international character of training could not have been ensured through national funding.	▪ The evaluation indicates that without EU funding in many cases probably no training in the field would have been organised. Given the identification of the relevance of the subject matter, a continuation of EU funding is recommended. ▪ Since one of the main aspects related to the EU added value derives from the international/cross-border component of the activities, it is recommended to pay special attention to those aspects of the activities that could not be easily or effectively guaranteed through national training, such as: the transnational dimension of training, the linguistic component, the exchange of experiences between professionals from different Member States. ▪ While ensuring the above, it is recommended to minimise the provision of training modules that would/could be ensured by national authorities, in order to avoid substitution effects of the training offer and to optimise the use of EU funds by investing on aspects that cannot be covered by national training offers.
Sustainability	▪ Given the theoretical nature of most of the Programme's results, ensuring their sustainability is particularly challenging. ▪ Efforts are being carried out by beneficiaries to foster the continuation of project results and activities, mainly through the creation of online tools, but their use and effectiveness are particularly limited.	▪ In order to ensure a higher level of sustainability of the projects, it is recommended to support integrated actions, promoted by well-established entities that are reference actors in the national/EU contexts. The use of integrated and participatory approaches should be fostered as a way to support the potential continuation of the results beyond the time scale of the activities.
Monitoring	▪ Monitoring is taking place including some quantitative indicators combined with	▪ It is recommended to use structured tools that also support transparency, accountability and

	qualitative information gathering. Nonetheless, the use of homogeneous monitoring tools is limited and although valuable information is included in project reports, it is not structured or aggregated to allow for coherent and easy comparison. ▪ The nature of the activities is mainly qualitative, and this is not easily captured by indicators. A few quantitative indicators are being collected which can serve as basis for a further improved monitoring system, but complementary qualitative information and performance indicators are key to assess and measure the Programme's effects. ▪ Existing indicators are still limited to very few quantitative output indicators: ▪ they allow the understanding of the geographical developments of the provision of training, the programme applicants and beneficiaries, as well as the number and nationality of the participants to the programme activities; ▪ they lack baseline data and target objectives, hindering the feasibility of further efficiency and effectiveness analyses; ▪ they do not allow to track individuals over time, or to understand the reasons of the geographical participation in the Programme. ▪ Internal tools of monitoring by beneficiaries exist, but	reporting functions, allowing for a clear understanding of the state of the art of the different activities promoted by the Programme beneficiaries. Despite being challenging in terms of balance between comparable and specific information, the use of homogeneous templates and indicators is crucial to ensure the Programme's monitoring and evaluability at a project and Programme level, and to compare trends and results over time and across countries. In order not to lose relevant complementary information, it is suggested to ensure flexibility in the templates by allowing the inclusion of additional indicators, sections and information, in those cases where the beneficiaries consider it necessary/ useful. ▪ It is recommended to complement quantitative indicators with further evaluation and monitoring tools as their information capacity mainly stays at an output level and does not reflect more detailed aspects related to the quality and characteristics of the training on offer (tools used, time spent, size of the training, quality of participants and speakers). Indicators listed under Regulation No 1382/2013 Art. 15 provide a benchmark for future indicator development. ▪ The Programme should count with a limited set of core indicators: ▪ It is recommended to maintain the output indicators already in use by the Programme (number of beneficiaries per Member State, expenditure per beneficiary, number of participants per beneficiary, nationality of participants, profession of participants)

	some of them have an informal nature (phone calls, emails…). Indicators listed under Regulation No 1382/2013 Art. 15 provide benchmark for future indicator development. ▪ To collect data for the assessment of performance, two main options exist which consist of: (a) testing judges' knowledge (which is burdensome and unpopular) and (b) using feedback forms (which is not as objective and based on subjective perception of respondents).	and to add further clarity on the existing indicators (e.g. distinction between participation and participant, expenditure per hour of training, expenditure per size of group etc.) and to feed them with baseline and target values, in order to allow for performance assessment and comparison with the situation before implementation. This also requires the establishment of homogeneous measurement units – i.e. individuals, sessions, etc.) ▪ Additionally, the Programme should foresee result indicators, informing on what is being achieved in terms of knowledge creation. These should refer to: ▪ the improvement in the level of knowledge of EU law and policies in the groups participating in activities funded by the Programme compared to the entire target group. Indicators should be realistic and be built by taking into account the qualitative information that can be collected, for instance through the assessment forms (e.g. coherently use the subjective indicator measuring the participants assessment on the Programme effectiveness); ▪ The number and quality of instruments and tools developed through actions funded by the Programme. Indicators would require the previous definition/clustering of the main typologies of instruments, tools and outputs expected to be produced by the

		Programme. ▪ The level of funding in relation to the outcomes achieved (efficiency) (e.g. expenditure per hour of training/average rating of the extent of improved knowledge in EU competition law). The formulation of such indicators would require the clear definition of outcomes/clusters of outcomes. ▪ Complementary information could be collected through additional qualitative indicators based on participants' perceptions and referring to: ▪ participants' assessment of the activities in which they participated and of their (expected) sustainability ▪ the European added value of the Programme ▪ the possible administrative, organisational and/or structural obstacles to the smoother, more effective and efficient implementation of the Programme.

Study on judges' training needs in the field of European competition law

Annex 1

Mapping of national jurisdictions

1. Austria

1.1. Competent courts for public enforcement

First Instance: Cartel Court ("Vienna Court of Appeal as Cartel Court")

Oberlandesgericht Wien als Kartellgericht
Schmerlingplatz 11
1016 Vienna
Tel. +43 (0)1 52 1 52 3346

Number of judges: 6

The Cartel Court has exclusive jurisdiction for competition law decisions in Austria (§ 58 I Law on Cartels, *Kartellgesetz* or KartG): the national competition authority in Austria has only investigative powers and can, after concluding its investigation, bring cases before the Cartel Court (in the same way as private enterprises). It is a specialised court and sits in panels consisting of two professional judges and two expert lay judges with the presiding professional judge casting the deciding vote (§§ 59, 63 KartG).

Final Instance: Supreme Cartel Court ("Supreme Court as Supreme Cartel Court")

Kartellobergericht (Oberster Gerichtshof als Kartellobergericht)
Schmerlingplatz 11
1016 Vienna
Tel. +43 0 1 52 1 52 3346

Number of judges: 3 + 2

The Cartel Supreme Court (16th panel of the Supreme Court) is a specialised chamber competent to hear appeals from the Cartel Court on points of law (§ 58 II KartG). It is composed of three professional judges and two lay experts.

1.2. Competent courts for private enforcement

First Instance: District Courts or **Regional Courts**

Bezirksgerichte Number of judges: 694

Landesgerichte Number of judges: 228

c/o Federal Ministry of Justice
Bundesministerium für Justiz
Museumsstraße 7
1070 Vienna
Tel. +43 1 526 36 86/521 52 22 30

While the 116 District Courts (*Bezirksgerichte*) are technically responsible at first instance for private actions relating to antitrust infringements (§ 37a KartG) for claims below €15,000 (§ 49 *Jurisdiktionsnorm* - JN), the value of this threshold means that such actions are rarely if ever brought before the District Courts. The 18 Regional Courts (*Landesgerichte*) are responsible at first instance for private actions above €15,000 (§ 50 JN). The courts are not specialised in competition law and have no specialised chambers or divisions.

Second Instance: Regional Courts or **Higher Regional Courts**

Landesgerichte Number of judges: 218

Oberlandesgerichte Number of judges: 108

c/o Federal Ministry of Justice

The Regional Courts would be competent to hear appeals on facts and law from the District Courts concerning claims below the threshold of €15,000 if such claims were ever to be brought.

The four Higher Regional Courts (*Oberlandesgerichte*) are competent to hear appeals against rulings of the Regional Courts in private actions concerning infringements of antitrust law. They are not specialised in competition law and have no specialised chambers or divisions.

Final Instance: Supreme Court (Civil Panels)

Oberster Gerichtshof Number of judges: 41
Schmerlingplatz 11
1016 Vienna
Tel. +43 0 1 52 1 52 3346

The civil panels (1-10) of the Supreme Court are the final instance for private actions relating to antitrust infringements hearing appeals against second instance decisions of the Regional or Higher Regional Courts on points of law only. They are not specialised in competition law. In principle, the Supreme Court can only be seized if the matter is of significant relevance for the preservation of legal unity or the development of the legal order; furthermore, the appeal is inadmissible if the value of the case is under €5,000 or if, in the range between €5,000 and €30,000, no leave for appeal has been granted by the second-instance court (§ 502 ZPO).

1.3. Competent courts for State aid-related cases

Actions related to the award by a public body of State aid (e.g. standstill obligation, recovery order) must be brought before the relevant administrative court. Actions between private parties resulting from the (illegal) attribution of State aid must be brought before the ordinary courts under the same conditions as for private enforcement of antitrust law.

(a) Administrative jurisdiction

First Instance: Administrative Courts

Bundesverwaltungsgericht
(Federal Administrative Court)
Erdbergstraße 192-196
1030 Vienna
+43 1 601490

Number of judges: 40

Landesverwaltungsgerichte
Nine regional administrative courts

The federal administrative court or one of the nine regional administrative courts (one for each of the *Länder*) is competent at first instance for standstill and recovery actions related to State aid depending on whether it is the federal government or one of the regional governments that grants the State aid. These courts are not specialised.

Final Instance: Supreme Administrative Court

Österreichischer Verwaltungsgerichtshof
Judenplatz 11
1010 Vienna
+43 1 531 11 0

Number of judges: 5

The Supreme Administrative Court is responsible for appeals from the regional and federal administrative courts regarding standstill and recovery actions related to State aid. There is one senate (composed of a president and four other judges) dealing with such cases.

(b) Ordinary jurisdiction

First Instance: District Courts or Regional Courts

Bezirksgerichte Number of judges: 694

Landesgerichte Number of judges: 228

Second Instance: Regional Courts or Higher Regional Courts

Landesgerichte Number of judges: 218

Oberlandesgerichte Number of judges: 108

Final Instance: Supreme Court (Civil Panels)

Oberster Gerichtshof Number of judges: 41

1.4. Judicial training

In general, judicial training in Austria is decentralised and as such the majority of continuous training activities is decided upon by the courts themselves. There are no regular training programmes on European competition law for judges in the civil courts. However, judges in the cartel courts organise their own training programme roughly once a year, almost always on economic questions as legal matters are addressed in a twice-monthly meeting of the judges of the Cartel Court – sometimes joined by judges from the Supreme Cartel Court. A special seminar is also organised roughly once a year for the lay judges of the cartel courts, which is also open to the professional judges, and which is also devoted mostly to economic matters. This seminar is open only to judges (because questions arising from pending cases might be discussed) and is mostly delivered by economists.

Federal Ministry of Justice

Bundesministerium für Justiz
Museumsstraße 7
1070 Vienna
Tel. +431 526 36 86
Alt. +431 521 52 22 30

Continuous training is provided by the Federal Ministry of Justice in cooperation with the four Higher Regional Courts and the Offices of the Senior Public Prosecutor. Specifically, the Advisory Board for Continuous Training set up by the Federal Ministry of Justice develops and coordinates tasks for continuous training activities across Austria. Private lawyers are allowed to take part in training activities but they rarely do so as funding for training activities is provided solely from the state budget and exclusively for judges and court staff.

Other providers of training for judges on European competition law

ERA ran the following seminars for Austrian judges in conjunction with the Federal Ministry of Justice with co-funding from the "Training for Judges" programme:

- "The Role of the National Judge within the Regulation 1/2003", 2003
- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU", 2012

The Austrian Academy of Sciences (*Österreichische Akademie der Wissenschaften*) and the Institute for European Integration Research at the University of Vienna (EIF) received funding from the "Training for Judges" programme in 2004.

1.5. Networking

The main opportunity for Austrian judges to network with lawyers, officials of the national competition authority, business representatives and other competition law professionals is a special competition conference organised once a year by the Austrian Chamber of Commerce (from which some of the lay judges in the cartel courts are appointed).

2. Belgium

2.1. Competent courts for public enforcement

First Instance: Court of Appeal of Brussels

Cour d'appel de Bruxelles/
Hof van beroep van Brussel
Palais de Justice/Justitiepaleis
Place Poelaertplein 1
1000 Brussels

Number of judges: 6

The Court of Appeal of Brussels is competent to hear cases concerning the public-law control of national competition authority decisions at first instance. It has two specialised chambers, one Flemish and one French-speaking, each sitting with three judges.

Final Instance: Court of Cassation (First Chamber)

Cour de cassation/Hof van Cassatie
Palais de justice
Place Poelaert 1
1000 Brussels
Tel. +32 (0) 2 508 61 11
secr.cass@just.fgov.be

Number of judges: 30

The First Chamber of the Court of Cassation is not specialised in competition law and deals with all civil, economic, commercial, administrative and disciplinary cases. Each chamber of the Court is divided into a Dutch- and a French-speaking section. The Court usually sits in panels of five judges but may also sit in panels of three for simpler cases, and as panels of nine for plenary sessions for important cases where both linguistic sessions must be represented.

2.2. Competent courts for private enforcement

First Instance: Courts of First Instance (Civil Sections) or Commercial Courts

Tribunaux de commerce/
Rechtbanken van koophandel

Number of judges: 139

Tribunaux de première instance/
Rechtbanken van eerste aanleg

Number of judges: 893

c/o FPS Justice
115 boulevard de Waterloo

1000 Brussels
info@just.fgov.be

There are nine specialised Commercial Courts, which are competent for litigation between commercial actors within their fields of business or any litigation concerning business acts. Each Commercial Court is composed of chambers, each of which can deal with private actions related to competition law. Two of the three judges of each chamber of a Commercial Court, which is presided by a professional judge, are professional businesspersons (*juges consulaires*), not professional judges (Art. 84 Judicial Code).

A non-commercially active party (e.g. a consumer) may choose whether to bring an action for damages before the Commercial Courts or the civil sections of the Courts of First Instance (Art. 573 Judicial Code). There are 13 Courts of First Instance in 12 districts (two in the Brussels district) in which judges sit alone or as panels with three members if requested by the plaintiff. Only a few judges in the Courts of First Instance deal with competition law but there is no formal attribution of competence.

Second Instance: Courts of Appeal (Civil Chambers)

Cours d'appel/Hoven van beroep Number of judges: c. 30
c/o FPS Justice

There are five Courts of Appeal in Antwerp, Brussels, Ghent, Liège and Mons competent to hear appeals on facts and law from the Courts of First Instance and Commercial Courts.

Final Instance: Court of Cassation (First Chamber)

Cour de cassation/Hof van Cassatie Number of judges: 30

The Court of Cassation hears appeals from the Courts of Appeal on points of law only.

2.3. Competent courts for State aid-related cases

(a) Administrative jurisdiction

First and Final Instance: Council of State (Administrative Litigation Section)

Conseil d'Etat/Raad van State Number of judges: 9
Wetenschapsstraat 33
1040 Brussels
Tel. +32 2234 96 11

The Council of State is competent for actions related to any administrative act of a non-legislative nature, including actions for annulment, standstill actions and State aid recovery cases. Any party demonstrating a personal, direct, certain, present and legitimate interest can lodge such an action. The Council of State sits in thematically specialised chambers of three judges (five French-speaking chambers, five Dutch-speaking and one bilingual), making a total of nine judges across three chambers who are specialised in economic matters.

(b) Ordinary jurisdiction

First Instance: Courts of First Instance (Civil Sections) **or Commercial Courts**

Tribunaux de première instance/ Rechtbanken van eerste aanleg Number of judges: 893

Tribunaux de commerce/ Rechtbanken van koophandel Number of judges: 139

Aside from challenging the administrative decision to attribute State aid before the Council of State, parties can bring private actions before the civil courts. There is no special provision for actions in this field.

Second Instance: Courts of Appeal (Civil Chamber)

Cours d'appel/Hoven van beroep Number of judges: c. 30

Final Instance: Court of Cassation (First Chamber)

Cour de cassation/Hof van Cassatie Number of judges: 30

2.4. Judicial training

Initial and continuous training is provided by the Institute of Judicial Training (IGO-IFJ). Continuous training is compulsory in specific circumstances, for example where judges are nominated to act as President of a court. 5% of the annual training budget comes from EU project funding and 95% from the national budget.

Institute of Judicial Training

Institut de formation judiciaire / Instituut voor gerechtelijke opleiding IGO-IFJ
Av. Louise 54
1050 Brussels
Tel: +32 2 518 49 42
info@igo-ifj.be

The institute undertakes multilateral cooperation within the framework of EJTN and also interacts with EU institutions, inviting members as speakers. Lawyers in private practice are not permitted to participate in the training activities of the institute.

Other providers of training to judges on EU competition law

Belgian judges attended the following seminars run by **ERA** with funding from the "Training for Judges" programme between 2003 and 2014:

- "The Role of the National Judge within the Regulation 1/2003" (2003 attended by two judges)
- "Training of National Judges - Raising awareness on some competition related issues concerning the pharmaceutical sector inquiry" (2011 attended by one judge)
- "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law" (2012 attended by one judge)
- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU" (2012 attended by two judges)
- "Advanced training of national judges on the application of European competition law rules" (2014 attended by one judge)

The **Université Catholique de Louvain-Centre Européen de la PME** (CEPME) was a beneficiary of the "Training for Judges" programme in 2005 running a seminar series entitled "Training of members of commercial courts in Community competition law and European judicial cooperation," between October 2005 and July 2006.

The **High Council for the Judiciary** (*Hoge Raad voor Justitie*) was also a beneficiary in 2003 running seminars under the title "Europees Mededingingsrecht na 1 mei 2004" and also between October 2004 and July 2005.

2.5. Networking

Apart from AECLJ and the EJTN exchange programme, there are no specific networking opportunities for Belgian judges dealing with competition law.

3. Bulgaria

3.1. Competent court for public enforcement

First and Final Instance: Supreme Administrative Court

Върховен административен съд Number of judges: 43
18, Al. Stamboliiski Blvd
1301 Sofia
Tel. +359 2 988 49 02
VAS_pressroom@sac.government.bg

The Court has exclusive jurisdiction for the public-law control of national competition authority decisions in the field of European competition law (as opposed to cases, for example, relating to public procurement, which must first be brought before the Administrative Court of Sofia). The 4th Division of the Supreme Administrative Court – composed of a president and 12 judges – is specialised in competition law and other areas of market regulation. At first instance cases are heard by a panel of three judges. Appeals are heard at final instance by a panel of five judges drawn from the rest of the Court.

3.2. Competent courts for private enforcement

First Instance: District Courts (Civil Divisions)

Окръжни съдилища Number of judges: 501
c/o Supreme Judicial Council
12 Ekzarh Yosif Street
1000 Sofia
Tel. +359 2 930 49 17
representative@vss.justice.bg
md@vss.justice.bg

The 28 District Courts are competent at first instance for private actions "arising from … cartel agreements, decisions and concerted practices, concentration of economic activities, unfair competition, and abuse of a monopoly position or of a dominant position" (A365(5) Code of Civil Procedure). Except in such cases specified by law, the District Courts usually act as the appellate jurisdiction for cases from the first-instance Regional Courts (*Районни съдилища*). Despite this special provision, the District Courts are not specialised in competition law and have no specialised chambers or divisions.

Second Instance: Courts of Appeal

Апелативни съдилища Number of judges: 163
c/o Supreme Judicial Council

The five Courts of Appeal may hear appeals against rulings of the District Courts based on the facts or law. They are not specialised in competition law and have no specialised chambers or divisions.

Final Instance: Supreme Court of Cassation (Commercial College)

Върховен касационен съд на Република България Number of judges: 23
2 Vitosha Blvd
1000 Sofia
Tel. +359 2 9219 88

The Commercial College of the Supreme Court of Cassation may hear appeals in private competition-related actions at third instance on points of law only. The court has no specialised chamber or division in competition law.

3.3. Competent courts for State aid-related cases

First Instance: Administrative Courts

Административни съдилища Number of judges: 274
c/o Supreme Judicial Council

The 28 Administrative Courts are responsible for State aid recovery actions at first instance. They are not specialised and have no specialised chambers or divisions.

Final Instance: Supreme Administrative Court

Върховен административен съд Number of judges: 86
18, Al. Stamboliiski Blvd
1301 Sofia
Tel. +359 2 988 49 02
VAS_pressroom@sac.government.bg

The court is also competent for State aid recovery actions at final instance.

3.4. Judicial training

Continuous training in the form of specific courses can be designated as mandatory by the Supreme Judicial Council according to Article 261 of the Judicial System Act where judges are promoted, appointed as an administrative head or specialise in a particular area of practice. The continuing training of magistrates covers national legislation, European law and interdisciplinary training.

National Institute of Justice

национален институт на правосъдието
14 Ekzarh Yossif Street
1301 Sofia
Tel. +359 2 9359 100
nij@nij.bg

The NIJ carries out the continuous training of judges, prosecutors and investigating magistrates. Mixed training with professional lawyers is not permitted but takes place through independent organisations. The target group of judges dealing with competition law cases is relatively small as a result of which competition law training is not regularly organised by the NIJ.

Other providers of training to judges on EU competition law

ERA ran the following seminar in conjunction with the National Institute of Justice with funding from the "Training for Judges" programme:

- "Training of the Bulgarian judiciary on EC Competition Law" (2009-2010)

Bulgarian judges also attended the following seminars run by ERA with funding from the programme: "Raising awareness on some competition-related issues concerning the pharmaceutical sector inquiry" (2011); "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law" (2012); "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU" (2012); "Advanced training of national judges on the application of European competition law rules" (2014).

The **Hungarian Academy of Justice** organised a project entitled "Training of Hungarian, Bulgarian and Romanian judges in EC competition law" with funding from the "Training for Judges" programme in 2005-2006.

The **Foundation Institute for European Projects** (FIEP) also obtained funding from the "Training for Judges" programme for the following projects:

- "Promotion of streamlined and effective operation and exercise of the powers granted to national courts and authorities pursuant to Regulation (EC) No 1/2003 in Bulgaria and Poland-Part I" (2008-2009)
- "Promotion of streamlined and effective operation and exercise of the powers granted to national courts and authorities pursuant to Regulation (EC) No 1/2003 in Bulgaria and Poland-Part II" (2010-2012)
- "Staying informed: Journal of EU Competition Law and Policy aimed at the Bulgarian Judiciary" (2013-2014)

Finally, the **Law and Internet Foundation** (Sofia) received funding from the "Training for Judges" programme in 2011-2013 for a seminar entitled "Strengthening the capacity of the Bulgarian judiciary in the enforcement of EC Competition rules".

Bulgarian judges were targeted by he **European Public Law Organisation** (EPLO) as a beneficiary of the "Training for Judges" programme in 2014 running seminars under the title "Training of national judges in Bulgaria, Cyprus and Greece on enforcement of EU Competition law."

3.5. Networking

Bulgarian judges participate in the EJTN exchange programme, AECLJ and similar cross-border networking opportunities.

4. Croatia

4.1. Competent courts for public enforcement

First and Final Instance: High Administrative Court of the Republic of Croatia

Visoki upravni sud Republike Hrvatske
Frankopanska 16
10000 Zagreb
Tel. + 385 1 4807 800
ured.predsjednika@vusrh.pravosudje.hr

Number of judges: 24

The High Administrative Court is specialised in competition cases and has exclusive jurisdiction for the public-law control of national competition authority decisions. Whereas administrative disputes in Croatia are conducted as a rule at courts of first and of second instance, competition law-related proceedings (among others) are conducted at one instance only before the High Administrative Court. Its decision cannot be appealed.

4.2. Competent courts for private enforcement

First Instance: Regional Commercial Courts

Trgovački sudovi
c/o Ministry of Justice
Vukovar Street 49
10 000 Zagreb
Tel. + 01 3714 000

Number of judges: 128

There are eight first-instance specialised regional commercial courts in Zagreb, Osijek, Varaždin, Bjelovar, Pazin, Rijeka, Split and Zadar. Among other things, they are competent for "disputes arising from the acts of unfair market competition, monopolistic agreements and disruption of equality on the single market of the Republic of Croatia" (Art 34b(9) of the Civil Procedure Act).

Final Instance: High Commercial Court of the Republic of Croatia

Visoki trgovački sud Republike Hrvatske
Ul. Petra Berislavića 11
1000 Zagreb
Tel. +385 1 4896 888
ured.predsjednika@vts.pravosudje.hr

Number of judges: 28

The High Commercial Court (HCC) hears appeals on the facts or law against rulings of the first-instance commercial courts. In principle, its decision is final. All judges of the HCC may be assigned competition-related cases.

"Extraordinary Revision": Supreme Court of the Republic of Croatia (Civil Division)

Vrhovni sud Republike Hrvatske Number of judges: 23
Trg Nikole Šubića Zrinskog 3
10000 Zagreb
Tel. +385 1 4862 222

A party in a civil case may apply for an extraordinary remedy named "revizija" (revision) by the Supreme Court against the final decision of the High Commercial Court. While this remedy is supposed to be exceptional, and thus does not prevent the final decision of the High Commercial Court being implemented, in practice an application for revision is lodged in a considerable number of civil cases. The Supreme Court does not have a specialised section for competition law.

4.3. Competent courts for State aid-related cases

(a) Administrative courts

First Instance: Regional Administrative Courts

Upravni sudovi Number of judges: 41

There are four regional administrative courts in Zagreb, Split, Rijeka and Osijek. In general, the administrative courts are competent if the action aims to nullify a State body's decision. To date, the only specific provision for this in the field of State aid is to be found in the Law on Aid in Agriculture and it should be noted that no case concerning the application of the EU rules on State aid has yet been brought.

Final Instance: High Administrative Court of the Republic of Croatia

Visoki upravni sud Republike Hrvatske Number of judges: 24

The High Administrative Court hears appeals on the facts or points of law from the regional administrative courts at second and final instance.

(b) Commercial courts

First Instance: Regional Commercial Courts

Trgovački sudovi Number of judges: 128

The commercial courts are competent if a company (legal entity) sues another legal entity for compensation of damage caused by the illegal attribution of State aid. The second legal entity can be sued together with the State (joint responsibility).

Final Instance: High Commercial Court of the Republic of Croatia

Visoki trgovački sud Republike Hrvatske Number of judges: 28

"Extraordinary Revision": Supreme Court of the Republic of Croatia (Civil Division)

Vrhovni sud Republike Hrvatske Number of judges: 23

4.4. Judicial training

Croatian judges and prosecutors are required to participate in ongoing training activities twice a year organised by the Judicial Academy. These training activities are held at the headquarters of the Judicial Academy in Zagreb, as well as at the Regional Training Centres functioning at the County Courts of Split, Rijeka, Osijek and Varaždin. Funding for judicial training is supplied from the state budget, coordinated by the Judicial Academy and the Ministry of Justice.

Judicial Academy of the Republic of Croatia

Pravosudna akademija
Ulica grada Vukovara 49
10000 Zagreb
Tel. +385 1 371 4540
pravosudna.akademija@pravosudje.hr

Every year, the Programme Council of the Judicial Academy decides on the annual curriculum which is then approved by the Steering Council of the Academy. The trainings are delivered primarily through interactive workshops, but also in the form of roundtables, seminars and conferences. Such activities are conducted by judges, prosecutors and their deputies, university professors and experts from other fields. Workshops on competition law are included every year as part of the Academy's continuous training programme.

Other providers of training to judges on EU competition law

ERA cooperated with the Judicial Academy in 2011 to deliver a seminar with funding from the "Training for Judges" programme entitled "Training of the Croatian Judiciary on the enforcement of EC competition law".

The **Institute for Comparative Law** at the Faculty of Law in Ljubljana carried out two seminars entitled "Training of Slovenian and Croatian judges for the application of EU Competition Law" with funding from the "Training for Judges" programme between 2011 and 2014.

Every year Croatian judicial officials also participate in international seminars on European competition law.

4.5. Networking

As of 1 July 2013, the Croatian Judicial Academy is a member of the European Judicial Training Network (EJTN) in which it had been an observer in the period from 2007 to 2013. Croatian judges and prosecutors are active in a range of EJTN activities, which provides them with numerous opportunities to exchange experience with their colleagues from other EU Member States and deepen their knowledge.

5. Cyprus

5.1. Competent courts for public enforcement

First Instance: Administrative Court

Cyprus Administrative Court Number of judges: 7
Charalambos Mouskos Street
1404 Nicosia

The Cyprus Administrative Court was established pursuant to the 8th Amendment of the Constitution of the Republic of Cyprus Law of 2015 (Law no. 130(I)/2015) as well as Law no. 131(I)/2015 regarding the establishment and operation of the Administrative Court, both published in the Official Journal of the Republic of Cyprus dated 21 July 2015. This new court became operational on 1 January 2016 and is housed in the premises of the Cyprus Supreme Court in Nicosia. The presiding judge and up to six member judges have yet to be appointed by the Cyprus Supreme Judicial Council.

The Cyprus Administrative Court is not specialised in competition law but has first-instance jurisdiction for judicial review of administrative decisions made by the national competition authority.

Final Instance: Supreme Court

Cyprus Supreme Court Number of judges: 13
Charalambos Mouskos Street
1404 Nicosia
E-mail: chief.reg@sc.judicial.gov.cy

The Cyprus Supreme Court is not specialised in competition law but, as of 2016, it will have final – rather than the current exclusive – jurisdiction for judicial review of administrative decisions made by the national competition authority. After the Cyprus Administrative Court starts work during 2016, appeals only on a point of law will be heard by a panel of three judges and, in exceptional cases of public interest, by the plenary (all judges).

5.2. Competent courts for private enforcement

First Instance: District Courts

Nicosia District Court — Number of judges: 79
Tel. No: 0035722865518

Limassol District Court
Tel. No.:0035725806100,0035725806128

Larnaca - Ammochostos (Famagusta)
District Courts
Tel. No.: 0035724802714
Tel. No (Paralimni): 0035723741915

Paphos District Court
Tel. No. 0035726208600

There are six District Courts in Cyprus (for the districts of Nicosia, Limassol, Larnaca, Paphos, Ammochostos (Famagusta) and Kyrenia, though due to the Turkish occupation of the north, the latter two are located in Paralimni and Nicosia respectively). Cases are heard by a single judge. The District Courts have no specialised judges for competition law.

Final Instance: Supreme Court

Cyprus Supreme Court — Number of judges: 13

The Cyprus Supreme Court is also the court of final instance for private-law actions relating to competition law.

5.3. Competent courts for State aid-related cases

First Instance (judicial review)**: Administrative Court** (from 2016)

Cyprus Administrative Court — Number of judges: 7

The new Cyprus Administrative Court will also be responsible at first instance for judicial review of decisions of the Office of the Commissioner for State Aid Control of the Republic of Cyprus.

First Instance (private actions)**: District Courts**

Number of judges: 79

Final Instance: Supreme Court

Cyprus Supreme Court — Number of judges: 13

The Supreme Court is the final instance for both judicial review and private actions in the field of State aid.

5.4. Judicial training

The Supreme Court is responsible for training the judiciary in Cyprus. A permanent training programme has been established with respect to national and European law. Training is funded entirely from the state budget.

The Supreme Court

Details as above.

Every two year the Court organises a judicial conference dealing with various legal and judicial matters. The Court cooperates with independent organisations and authorities to provide seminars on competition law. Seminars are also organised in association with other European institutions.

Other providers of training to judges on EU competition law

The **European Institute of Cyprus** was a beneficiary of the "Training for Judges" programme in 2007 running a seminar entitled "Creating Functional Tools to Inform & Train National Judges in EC Competition Law".

5.5. Networking

Judges at all levels attend conferences and seminars abroad run by ERA and EJTN, sharing knowledge and ideas and developing educational programs and materials for globalised judicial training methods. Judges also participate in seminars organised by the Cyprus Bar Association and other local institutions.

6. Czech Republic

6.1. Competent courts for public enforcement

First Instance: Regional Court of Brno

Krajský soud v Brně Number of judges: 12
Roosevelt 16
Brno 60195
Tel. +420 546 511 111
podatelna@ksoud.brn.justice.cz

The Regional Court of Brno is the sole court competent at first instance to hear cases relating to the public-law review of decisions of the national competition authority, which has its seat in Brno. Twelve judges sitting in four chambers deal with such cases.

Final Instance: Supreme Administrative Court

Nejvyšší správní soud České republiky Number of judges: 34
Moravské náměstí 6
67540 Brno
Tel. +420 542 532 311
podatelna@nssoud.cz

The Supreme Administrative Court hears appeals from the Regional Court of Brno in cases related to the public-law control of national competition authority decisions. The Court sits in panels or chambers of 3-9 judges depending on the subject. Whereas until 2013 there was a specialised chamber for competition cases, this is no longer true.

6.2. Competent courts for private enforcement

First Instance: Regional Courts (Commercial Sections)

Krajské soudy Number of judges: 243
c/o **Ministry of Justice**
Vyšehradská 16
128 10 Praha 2
Tel. + 420-221 997 111
posta@msp.justice.cz

In accordance with §9(h) of the Civil Procedure Code (Act no. 99/1963 Coll.), the commercial sections of any of the eight Regional Courts (including the Metropolitan

Court in Prague) can hear private actions related to antitrust infringements. The 86 District Courts have no competence here.

Second Instance: High Courts (Commercial Sections)

Vrchní soud Number of judges: 62

(Praha)
Náměstí Hrdinů 1300
140 00 Praha 4
Tel. +420261196 111
podatelna@vsoud.pha.justice.cz

(Olomouc)
Masarykova třída 1
771 11 Olomouc

The two High Courts hear appeals from the Regional Courts in private actions but are not specialised in competition law.

Final Instance: Supreme Court

Nejvyšší soud České republiky Number of judges: 66
Burešova 571/20
602 00 Brno
Tel. +420 541 593 111
podatelna@nsoud.cz

The Supreme Court is the final instance for private actions related to antitrust infringements but has no specialisation in the field.

6.3. Competent courts for State aid-related cases

First Instance: Regional Courts (Commercial Sections)

c/o **Ministry of Justice** Number of judges: 243

The commercial sections of any Regional Court may be requested to intervene in cases when State aid was granted by a State body not respecting the duty to interrupt the execution of the measure, such as when the aid has not been notified at all or the measure was executed before the COM approved it. They can also hear private actions related to the recovery of State aid at first instance.

Second Instance: High Courts (Commercial Sections)

Vrchní soudy Number of judges: 62

The High Courts hear appeals from the Regional Courts in State aid cases.

Final Instance: Supreme Court

Nejvyšší soud České republiky Number of judges: 66

The Supreme Court is the final instance for State aid cases but has no specialisation in the field.

6.4. Judicial training

Continuous training is not mandatory in the Czech Republic. The Judicial Academy provides training for judges whilst the Supreme Administrative Court, in cooperation with the Academy, provides training opportunities for administrative judges specifically. Judicial training is provided entirely from state funding.

Judicial Academy

Justiční akademie
Masarykovo náměstí 183/15
767 01 Kroměříž
Tel. +420 573 505 111
sekretariat@akademie.justice.cz

The Judicial Academy designs an annual training programme approved by the Council of the Judicial Academy. In the last three years Czech judges had many opportunities to participate in seminars focused on European competition law as the Judicial Academy implemented the project "Training of Czech and Slovak Judges in EU Competition Law" with funding from the "Training for Judges" programme. The judiciary can still benefit from the project using six e-learning modules developed within the project

The Judicial Academy was also a beneficiary of the "Training for Judges" programme in partnership with ERA for the following projects:

- "Training of the Czech and Slovak Judiciary on EC Competition Law", 2008
- "Seminar for the Czech and Slovak Judiciary", 2006

The Judicial Academy also conducted training sessions on the economic aspects of competition law and the private enforcement of competition law on 20-21 May 2013 in Kroměříž and also on the criminal enforcement of competition law on 19 September 2013 in Prague.

Supreme Administrative Court

See details above.

In 2013 the Supreme Administrative Court offered a series of training events focused on issues of competition law. Firstly on public procurement in the context of EU competition law held at the SAC on 7 February 2013 and followed up with another session at the Slovak Judicial Academy on 4-5 April 2013. The SAC also conducted training sessions on the public and private enforcement of competition law on 5-6 March.

Other providers of training to judges on EU competition law

Czech judges attended the following seminars organised by **ERA** and funded by the "Training for Judges" programme:

- "Advanced training of national judges on the application of European law", 2015
- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU", 2012
- "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law", 2012
- "Training of National Judges – Raising awareness on some competition related issues concerning the pharmaceutical sector inquiry", 2011

The **Europlatform Civic Association** was a beneficiary of the "Training for Judges" programme in 2006, conducting a seminar entitled "Increasing the qualification of Czech judges in the area of EC competition law with the help of setting-up judicial-business fora".

6.5. Networking

Czech judges have the opportunity to attend seminars on competition law with judges from other Member States, in particular with Slovak judges.

7. Denmark

7.1. Competent courts for public enforcement

There are two strands to the public enforcement of competition law in Denmark. Following a decision of the Danish Competition Council (part of the national competition authority) that an infringement has taken place and must stop:

a) the infringer can appeal the decision to the Competition Appeal Tribunal (also part of the national competition authority), the decision of which can be submitted for judicial review by the courts, and
b) the Competition Council can send the case to the public prosecutor for economic and international crime, who can decide to launch a criminal prosecution against the infringer, though the criminal case will await the outcome of the judicial review.

First Instance (Judicial Review)**: Maritime and Commercial High Court** (Civil Division)

Sø- og Handelsretten Number of judges: 5
Amaliegade 35
DK1256 Copenhagen
Tel. +45 99 68 46 00
post@shret.dk

The Maritime and Commercial High Court is the only specialised court in Denmark. The Civil Division within the court hears competition law cases. Plaintiffs can file their case directly at the Maritime and Commercial High Court or request at the preparatory stage that their case be sent to the Maritime and Commercial High Court from the court in which the case was originally filed (ordinarily the District Courts). Whereas in theory cases concerning the judicial review of competition authority decisions may be brought in the District Court where the infringer has its seat (Administration of Justice Act §240, 2), in practice virtually all public actions begin in the Maritime and Commercial High Court due to its specialisation. Rulings of the Maritime and Commercial High Court may be appealed directly to the Supreme Court, which would not be possible if the case were to begin in the District Courts.

First Instance (Criminal Prosecution (or Judicial Review))**: District Courts**

Byretterne (District Courts) Number of judges: 252
24 District Courts in Copenhagen, Aalborg, Esbjerg, Glostrup, Helsingør, Herning, Hillerød, Hjørring, Holbæk. Holstebro. Horsens. Kolding. Lyngby Nykøbing, Næstved, Odense, Randers, Roskilde, Svendborg, Sønderborg, Viborg, Århus, Bornholm and Frederiksberg.

c/o Danish Court Administration
Domstolsstyrelsen

Store Kongensgade 1-3
1264 Copenhagen K.
Tel. +45 33 95 68 30
post@domstolsstyrelsen.dk
www.domstol.dk

In theory, judicial review cases not filed with the Maritime and Commercial High Court would be heard by the District Court in the District where the plaintiff has its seat (Administration of Justice Act § 240, 2).

District Courts, however, have exclusive first-instance jurisdiction for criminal cases and would therefore be competent if the public prosecutor decides to launch a criminal prosecution on the basis of the competition authority's decision.

Second Instance (Criminal Prosecution (or Judicial Review))**: High Courts**

Vestre Landsret Number of judges: 94
Western High Court
Asmildklostervej 21
8800 Viborg
Tel. +45 99688000
post@vestrelandsret.dk

Østre Landsret
Eastern High Court
Bredgade 59
1260 København K.
post@oestrelandsret.dk

Appeals from the District Courts based on the facts or a point of law are heard by the High Courts.

Final Instance: Supreme Court

Højesteret Number of judges: 18
Prins Jorgens Gaard 13
DK 1218 Copenhagen
Tel. +45 33 63 27 50
post@hoejesteret.dk

If a case has begun in a High Court or the Maritime and Commercial High Court, there is a right of appeal to the Supreme Court. If a case has begun in a District Court, a third-instance appeal from the High Court to the Supreme Court requires permission from the Appeal Permission Board and is only granted to leading cases of general interest. In criminal cases, the Supreme Court will examine only points of law and the punishment, and will not re-examine the facts. The Supreme Court is not specialised in competition law.

7.2. Competent courts for private enforcement

First Instance: Maritime and Commercial High Court (Civil Division) or **High Courts** or **District Courts**

Sø-og Handelsretten	Number of judges: 5
Landsretterne	Number of judges: 94
Byretterne (District Courts) c/o Danish Court Administration	Number of judges: 252

The Maritime and Commercial High Court does not have exclusive jurisdiction but in practice most private actions are brought before it given its specialisation and the fact that its judgments can be appealed directly to the Supreme Court.

In theory, private actions not filed with the Maritime and Commercial Court would be heard by the District Court in the District where the plaintiff has its seat (Administration of Justice Act § 240, 2).

The High Courts may also act as a court of first instance in "leading cases", i.e. which raise questions of a more general character that have not yet been tried by the Supreme Court.

Second Instance (Appeal from District Courts)**: High Courts**

Landsretterne	Number of judges: 94

Appeals from the District Courts are heard by the High Courts.

Final Instance: Supreme Court

Højesteret	Number of judges: 18

The Supreme Court is not specialised. If a case has begun in a High Court or the Maritime and Commercial High Court, there is a right of appeal to the Supreme Court. If a case has begun in a District Court, a third-instance appeal from the High Court to the Supreme Court requires permission from the Appeal Permission Board and is only granted to leading cases of general interest. In civil cases, the Supreme Court can examine both points of law and the facts of the case.

7.3. Competent courts for State aid-related cases

First Instance: Maritime and Commercial High Court (Civil Division) or **High Courts** or **District Courts**

Sø-og Handelsretten	Number of judges: 5
Landsretterne	Number of judges: 94
Byret (District Court)	Number of judges: 252

c/o Danish Court Administration

See the explanation under Section 7.2. above as to when each of the type of courts mentioned would be competent.

Second Instance (Appeal from District Courts)**: High Courts**

Landsretterne Number of judges: 94

Final Instance: Supreme Court

Højesteret Number of judges: 18

7.4. Judicial training

The training efforts of judges and clerks are managed by the Danish Court Administration. Pursuant to S42(4) of the Judicial Code the appointment of a judge to a District Court or the specialised Maritime and Commercial Court requires that one of the High Court's rate the applicant suitable to hold the position. Therefore with the exception of special qualified applicants, those wishing to be appointed must have held a temporary appointment in one of the High Court's lasting nine to ten months. Such temporary appointments ensure broader recruitment from different legal professionals. The Court Administration is entirely funded from the state budget.

The Danish Court Administration

Danmarks Domstolsstyrelsen
Domstolsstyrelsen
Store Kongensgade 1-3
1264 Copenhagen K.
Tel. +45 33 95 68 30
post@domstolsstyrelsen.dk
www.domstol.dk

The training efforts of the Court Administration are focussed on the judges and deputy judges of the Maritime and Commercial High Court. Judges at these courts participate in courses and conferences within the AECLJ, EJTN and ERA and the Court Administration also interacts with EIPA. The Maritime and Commercial Court also ensures an ongoing dialogue with the NCA regarding European Competition Law developments. Limited training is also offered in cooperation with the Danish Bar Association and the Danish Prosecution Service which allows for the inclusion of lawyers in private practice also.

Other providers of training to judges on EU competition law

Danish judges attended the following seminars delivered by **ERA** between 2012 and 2015:

- "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law," (attended by two Danish judges in 2012).

- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU," (attended by two Danish judges in 2012).
- "Advanced training of national judges on the application of European law," (attended by a single Danish judge in 2015).

Denmark had a total of 12 participants in the "Training for Judges" programme between 2007 and 2013.

7.5. Networking

The judges of the Maritime and Commercial High Court participate in courses and conferences within the AECLJ, EJTN and ERA and keep in regular contact with the NCA. From these forums more informal contacts evolve.

8. Estonia

8.1. Competent courts for public enforcement

There are two strands to the public enforcement of competition law in Estonia:

a) decisions by the Estonian Competition Authority, which can be submitted for judicial review to the Tallinn Administrative Court, and
b) criminal prosecution against the infringer.

(a) Judicial review

First Instance: Tallinn Administrative Court

Tallinna Halduskohus Number of judges: 16
Pärnu mnt. 7
15082 Tallinn
Tel. +372 6282 728
talhk.info@kohus.ee

The Tallinn Administrative Court is responsible for the review of Estonian Competition Authority decisions when the Competition Authority is a respondent. According to the Code of Administrative Court Procedure § 7 (1) an action is to be brought in the court having jurisdiction of the respondent's seat or place of service. The seat of the Authority is in Tallinn. The court is not specialised in competition law and has no specialised chamber or division for this purpose.

Second Instance: Tallinn Circuit Court (Administrative Section)

Tallinna Ringkonnakohus Number of judges: 5
Pärnu mnt 7
15084 Tallinn
Tel. +372 6282 750
talrk.info@kohus.ee

Appeals against rulings of the Tallinn Administrative Court regarding the public-law control of national competition authority decisions are heard by the administrative section of the Tallinn Circuit Court. The court is not specialised in competition law and has no specialised judges for this purpose.

Final Instance: Supreme Court (Administrative Chamber)

Riigikohus Number of judges: 5
17 Lossi St
50093 Tartu
Tel. +372 7 309002
info@riigikohus.ee

The Supreme Court has a separate chamber for administrative law cases but it is not specialised in competition law.

(b) Criminal sanctions

First Instance: County Courts

Harju County Court Number of judges: 144
(Harju Maakohus)
Liivalaia 24
15034 Tallinn
Tel. + 372 6200 002
harjumk.info@kohus.ee

Viru County Court
(Viru Maakohus)
virumk.info@kohus.ee

Pärnu County Court
(Pärnu Maakohus)
Kuninga 22
80099 Pärnu
Tel. + 372 447 9500
parnumk.info@kohus.ee

Tartu County Court
(Tartu Maakohus)
Kalevi 1
50092 Tartu
Tel. + 372 750 0615
tartumk.info@kohus.ee

As the agreements, decisions and concerted practices prejudicing free competition are criminalised in Estonia (Competition Act § 73^5-73^8), the county courts are responsible for the criminal procedures and misdemeanour court procedures relating to antitrust infringements. All of the first-instance county courts have jurisdiction over criminal actions and misdemeanours related to antitrust infringements.

Second Instance: Circuit Courts (Criminal Sections)

Tallinn Circuit Court
Tallinna Ringkonnakohus
Number of judges: 7

Tartu Circuit Court
Tartu Ringkonnakohus
Kalevi 1
51010 Tartu
Tel. +372 750 0500
tarturk.info@kohus.ee
Number of judges: 5

Appeals concerning criminal sanctions imposed by the County Courts go to the criminal sections of the Tallinn and Tartu Circuit Courts.

Final Instance: Supreme Court (Criminal Chamber)

Riigikohus
Number of judges: 7

The Supreme Court has a separate chamber for criminal cases.

8.2. Competent courts for private enforcement

First Instance: County Courts

Number of judges: 144

The four County Courts have jurisdiction at first instance for private actions related to antitrust infringements.

Second Instance: Circuit Courts (Civil Sections)

Tallinn Circuit Court
Tallinna Ringkonnakohus
Number of judges: 15

Tartu Circuit Court
Tartu Ringkonnakohus
Number of judges: 5

Appeals arising from private actions concerning antitrust infringements go to the civil sections of the Circuit Courts.

Final Instance: Supreme Court (Civil Chamber)

Riigikohus
Number of judges: 7

The final instance for private actions is the civil chamber of the Supreme Court.

8.3. Competent courts for State aid-related cases

First Instance: Administrative Courts

Tallinn Administrative Court (Tallinna Halduskohus)	Number of judges: 16
Tartu Administrative Court (Tartu Halduskohus)	Number of judges: 9

Actions related to the (allegedly) illegal attribution of State aid are handled at first instance by the Administrative Courts. For example, Tartu Administrative Court is responsible for the review of decisions by the Estonian Agricultural Registers and Information Board (ARIB) in the field of State aid when ARIB is a respondent. According to the Code of Administrative Court Procedure (§7(1)) an action is to be brought in the court having jurisdiction of the respondent's seat or place of service. The seat of ARIB is in Tartu.

Second Instance: Circuit Courts (Administrative Sections)

Tallinn Circuit Court Tallinna Ringkonnakohus	Number of judges: 5
Tartu Circuit Court Tartu Ringkonnakohus	Number of judges: 5

Appeals against decisions of the Administrative Courts are heard by the administrative sections of the Circuit Courts. For example, appeals against rulings of the Tartu Administrative Court regarding the public-law control of decisions by the Agricultural Registers and Information Board are heard by the administrative section of the Tartu Circuit Court.

Final Instance: Supreme Court (Administrative Chamber)

Riigikohus	Number of judges: 5

The administrative chamber of the Supreme Court is the final instance for actions related to the illegal attribution of State aid.

8.4. Judicial training

During preparatory service, a candidate for judicial office shall be prepared for the office of judge. A candidate for judicial office shall undergo preparatory service in the judicial institution where the candidate for judicial office is appointed to office. Preparatory service may last up to two years. There are some special courses meant for candidates for judicial office and young judges. However, this system may change in the near future.

In terms of continuous training, judges are required by §74 Courts Act to develop knowledge and skills on a regular basis and to participate in training. The training is conducted by the Judicial Training Council through the Supreme Court of Estonia, which is also responsible for the budget.

Supreme Court of Estonia, Judicial Training Council

Training Department
Lossi 19
51003 Tartu
Tel. +372 7 309 075
tanel.kask@riigikohus.ee
Contact: Tanel Kask, Head

Judicial training is based on the needs of judges. The Judicial Training Department provided a seminar entitled "Money Laundering and Infringements of the Competition Rules" in 2011 and "Competition Law" in 2014. There have been also mixed training events with private lawyers occasionally, subject to the topic in question and the availability of places. The judges have the possibility to visit competition law courses abroad as well.

Other providers of training to judges on EU competition law

ERA provided a seminar entitled "Training of the Finnish and Estonian judiciaries on the enforcement of EC State aid rules" with funding from the "Training for Judges" programme in 2010-2012. Estonian judges have also attended other training sessions organised with funding from the programme, notably "Advanced Training in EU Antitrust Law – Forum for Judges" organised by ERA with the support of AECLJ on 3-5 December 2014 and "Seminar on European Competition Law for National Judges: Competition Economics for Judges" on 19–21 February 2015 and "European Competition Law Fundamentals for National Judges – Quantification of Damages in Competition Cases" on 8–10 May 2014 organised by the Hungarian Competition Authority.

8.5. Networking

Judges acquire knowledge of other Member States' law through the Exchange Programme organised by EJTN. Opportunities for judges specialised in competition law to network take place through the Tallinn Administrative Court, whereas networking opportunities in the Circuit Courts and the Supreme Court are infrequent due to the lack of specialisation.

9. Finland

9.1. Competent courts for public enforcement

First Instance: Market Court

Markkinaoikeus Number of judges: 23
Radanrakentajantie 5
00520 Helsinki
Tel. +358-(0)29 56 43300
markkinaoikeus@oikeus.fi

In Finland the national competition authority (Finnish Competition and Consumer Authority, FCCA) investigates infringements of competition law. The FCCA may propose a penalty payment but this must be imposed by the Market Court. The FCCA may order that the undertaking terminate the unlawful conduct or decide that the commitments shall be binding on the undertakings if these commitments are such that they may eliminate the restrictive nature of the conduct. The FCCA may also oblige an undertaking to deliver a product to another undertaking on similar conditions as offered by the same undertaking to other undertakings in a similar position. Those decisions may be appealed to the Market Court. The Market Court may, upon the proposal of the FCCA, prohibit or order a concentration to be dissolved, or attach conditions on the implementation of a concentration if the concentration may significantly impede effective competition in the Finnish markets or a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position.

All judges in the Market Court have competence for competition law but in practice about ten of them are specialised in the field.

Final Instance: Supreme Administrative Court

Korkein hallinto-oikeus Number of judges: 22
Fabianinkatu 15,
Helsinki, Finland
Tel. +358 29 5640 200
korkein.hallinto-oikeus@oikeus.fi

Appeals against judgments of the Market Court – on the facts or points of law – are heard by the Supreme Administrative Court.

9.2. Competent courts for private enforcement

First Instance: District Courts

Käräjäoikeudet Number of judges: 508
c/o Ministry of Justice
PO BOX 25
FI-00023 Government
Tel. +358 2951 6001
oikeusministerio@om.fi

The 27 District Courts are not specialised.

Second Instance: Courts of Appeal

Hovioikeus Number of judges: 179
c/o Ministry of Justice

There are five Courts of Appeal, none of which is specialised. They may hear appeals on the facts or points of law.

Final Instance: Supreme Court

Korkein oikeus Number of judges: 19
Pohjoisesplanadi 3
FIN-00 171 Helsinki
Tel. +358 29 5640000
korkein.oikeus@oikeus.fi

The Supreme Court may hear appeals on the facts or points of law. It is not specialised in competition law cases.

9.3. Competent courts for State aid-related cases

(a) Administrative courts

First Instance: Administrative Courts

c/o Ministry of Justice Number of judges: 184

There are seven regional administrative courts in Finland in Helsinki, Hämeenlinna, Eastern Finland, Northern Finland, Turku and Vaasa. The autonomous Åland Islands also have a separate administrative court. The administrative courts are competent for standstill decisions and other actions addressed to State bodies.

Final Instance: Supreme Administrative Court

Korkein hallinto-oikeus Number of judges: 22

(b) Civil courts

Appeals from the Administrative Courts on the facts or on points of law may be brought before the Supreme Administrative Court.

First Instance: District Courts

Käräjäoikeudet Number of judges: 508
c/o Ministry of Justice

The civil courts are competent for private actions related to the attribution of State aid.

Second Instance: Courts of Appeal

Hovioikeus Number of judges: 179

Final Instance: Supreme Court

Korkein oikeus Number of judges: 19

9.4. Judicial training

Continuous training is provided by the Ministry of Justice but is only a requirement in specific circumstances, notably when there are major amendments to the law. Funding for training activities is provided by the state.

Ministry of Justice

Oikeusministeriö
Ministry of Justice
PO BOX 25
FI-00023 Government
Tel. +358 2951 6001
oikeusministerio@om.fi

Common seminars are conducted in conjunction with other Nordic countries and there exists an exchange programme between them. There is also cooperation with the Bar Association in the form of mixed training, notably where procedural changes to the law take place. Previously Finnish judges have participated in official training activities in Brussels, Budapest, Florence, Vilnius and London. In addition there is cooperation between the Ministry of Justice and other EU actors including EJTN, the Council of Europe, the Lisbon Network, ERA, EIPA, EPO, Eurojust and the Nordic Universities Network.

The Finnish Ministry of Justice was a beneficiary of the "Training for Judges" programme in 2003, 2008, 2011 and 2013 running seminars in conjunction with **ERA** under the following titles:

- "The Role of the National Judge within Regulation 1/2003", 2003
- "Training of the Finnish and German Judiciary on EC Competition Law", 2008

- "Training of the Finnish and Estonian Judiciary on the enforcement of EC State aid rules", 2010

Finnish judges also attended seminars organised by ERA and funded by the "Training for Judges" programme on "Training of National Judges - Raising awareness on some competition-related issues concerning the pharmaceutical sector inquiry" in 2011 and "Advanced training of national judges on the application of European competition law rules" in 2013.

9.5. Networking

The publisher Talentum organises an annual conference on competition law, attended by judges, lawyers, economists etc. Members of the Finnish Competition Law Association, who are drawn from different professional backgrounds, are able to participate in lunchtime seminars concerning competition law issues.

10. France

10.1. Competent courts for public enforcement

There are two strands to the public enforcement of competition law in France:

a) decisions by the French Competition Authority, which can be submitted for judicial review to the *Cour d'Appel de Paris*, and
b) criminal prosecution against natural persons who have had a personal and decisive role in fraudulent activity associated with the anticompetitive practice, and for which sanctions of up to four years in prison and a fine of €75,000 may apply (L420-6 of the Code of Commerce).

(a) Judicial review

First Instance: Court of Appeal of Paris (Chamber 5-7 Economic Regulation)

Cour d'Appel de Paris Number of judges: 5
Quai des Orfèvres, 75001 Paris
Tel: +33 01 44 32 52 52

The Court of Appeal of Paris has exclusive jurisdiction to review national competition authority decisions according to Article L464-8 of the Code of Commerce. The chamber responsible is composed of two presidents of chamber and three other judges.

Final Instance: Court of Cassation (Commercial, Financial and Economic Chamber)

Cour de Cassation Number of judges: 15
10 Boulevard du Palais, 75004 Paris
Tel: +33 1 44 32 95 59
E-mail: scom.courdecassation@justice.fr

The Court of Cassation is the court of final instance for public-law control of competition authority decisions. It may decide on points of law only. Competition cases are heard in the first section of the Commercial, Financial and Economic Chamber, which is composed of fifteen judges. The judges of this section in charge of such cases are specialised in competition law and also in economic regulation (sectoral regulation such as energy, telecommunications, transports, including decisions by the Financial Market's Regulatory Authority AMF relating to investors, listed companies, public offerings).

(b) Criminal prosecution

The specialisation principle does not apply to criminal prosecution cases. Criminal prosecutions in competition matters are very rare in practice.

First Instance: Tribunals of Grand Instance (Correctional Courts)

Tribunaux de Grande Instance (Tribunaux correctionnels) Number of judges: 500+

Abuse of a dominant position, limiting access to the market, price-fixing etc. are criminal offences ("délits") giving rise to criminal prosecution which at first instance will be tried by the *Tribunal correctionnel*. This is a chamber of the *Tribunal de grande instance* composed of three judges. In courts in the larger cities, there may be more than one such chamber per court. All 173 *Tribunaux correctionels* are competent to hear such cases.

Second Instance: Courts of Appeal (Correctional Chambers)

Cours d'Appel (chambres correctionnelles) Number of judges: c. 150

The Correctional Chambers of the 36 Courts of Appeal hear appeals on facts and law against judgments of the *tribunaux correctionnels*. Each chamber is composed of three judges and in the larger appeal courts there are several correctional chambers.

Final Instance: Court of Cassation (Criminal Chamber)

Cour de Cassation (Chambre criminelle) Number of judges: 29

The Court of Cassation is the final instance for criminal cases decided by the *tribunaux correctionnels* and considers points of law only.

10.2. Competent courts for private enforcement

A specialisation system was instituted by Law 2001-420 of 15 May 2001 relating to New Economic Regulations (NRE) and extended by Law 2008-776 of 4 August 2008 on the Modernisation of the Economy (LME). Specialisation applies not only to the courts of first instance but also to the appeal level where the Paris Court of Appeal is the only court competent.

First Instance: Commercial Courts and Tribunals of Grand Instance

Tribunaux de Commerce et Tribunaux de Grande Instance
Bordeaux, Fort-de-France, Lille, Lyon, Marseille, Nancy, Paris and Rennes

Number of judges: c. 24

The Commercial Courts and the *Tribunaux de Grande Instance* are the courts of first instance in private-law competition cases. According to Decree No 2005-1756 of 30 December 2005, only eight Commercial Courts and eight *Tribunaux de Grande Instance* in France are competent to rule on competition law matters. These courts have exclusive jurisdiction as regards the award of damages following anti-competitive practices prohibited by Articles 101 and 102 TFEU.

If both parties to the dispute are commercial actors, or – in disputes involving commercial and non-commercial actors – if the plaintiff so chooses, the case is heard in the Commercial Court. There are approximately 24 judges handling competition cases in these specialised courts. Judges of the Commercial Courts (*juges consulaires*) are laypersons elected from the business community. Otherwise, the case would be heard before a *Tribunal de Grande Instance*, though in practice this is rarely the case – either because both parties are commercial actors or because the plaintiff chooses to bring the case before a Commercial Court.

Second Instance: Court of Appeal of Paris (Commercial Chambers 5-3, 5-4, 5-5)

Cour d'Appel de Paris Number of judges: 9

According to Article R420-5 of the Code of Commerce, this court has exclusive jurisdiction to hear appeals from the Commercial Courts and *Tribunaux de Grande Instance* in private actions related to competition law. The court may decide upon facts and law. Three chambers, each composed of a president and two other judges, deal with such cases.

Final Instance: Court of Cassation (Commercial, Financial and Economic Chamber)

Cour de Cassation Number of judges: 15

The Court of Cassation is the court of final instance for private actions regarding EU competition law. It may decide on points of law only. Competition cases are heard in the Commercial, Financial and Economic Chamber.

N.B. It should be noted that in France only the administrative courts have jurisdiction in private litigation cases relating to anti-competitive practices deriving from public procurement agreements (Tribunal des conflits, Lycées d'Ile de France, 16.11.2015, n° 4035), even if public procurement law is not addressed by this Study. Accordingly, *all* Administrative Tribunals have jurisdiction for such actions. Decisions of an Administrative Tribunal may be appealed before the competent Administrative Court of Appeal. A final appeal may be heard by the Council of State.

10.3. Competent courts for State aid-related cases

(a) Administrative order

First Instance: Administrative Tribunals

Tribunaux Administratifs Number of judges: c. 20
c/o Conseil d'État
1, place du Palais-Royal
75100 Paris cedex 01

The 42 Administrative Tribunals (of which 31 in metropolitan France) rule at first instance on competition law cases in which public entities are involved, including on the standstill obligation and the recovery of illegal State aid. There are no specific procedures for State aid. For instance if a company wants to challenge a decision of a municipality to grant financial support to another company, it could file an appeal

against this decision and in parallel ask the tribunal to suspend this decision (see for example CAA Bordeaux 25 June 2012 *Région de la Guadeloupe 11BX02750*). The number of such cases is very small, however, and of the 800 judges serving in the Administrative Tribunals, the central administration estimates that only 20 are dealing with State aid-related cases.

Second Instance: Administrative Courts of Appeal

Cours Administratives d'Appel Number of judges: c. 6
c/o Conseil d'Etat

The Administrative Appeal Courts have competence at second instance to hear cases on the facts or points of law concerning State aid, including the recovery of illegal State aid. There are eight Administrative Courts of Appeal; decisions can be appealed in cassation to the Council of State. The central administration estimates that of the c. 250 judges in the Administrative Appeals Courts, about six deal with State aid.

Final Instance: Council of State

Conseil d'Etat
1 Place du Palais Royal, 75001 Paris Number of members: 12
Tel: +33 140208000
Email: lise.ardhuin@conseil-etat.fr

The Council of State is the court of final instance in cases involving the prevention, prohibition or recovery of illegal State aid. It has the exclusive competence to hear appeals on points of law only from the Administrative Courts of Appeal. It has exclusive competence to annul a decree or a ministerial regulation (see for example in the context of electricity regulations CE 27 July 2014 *Sociétés SRD et Geredis n°363984*). In this context, it is possible to seek interim measures to suspend a potentially illegal decree. The central administration estimates that approximately 12 members of the Council of State deal with State aid cases.

(b) Ordinary judicial order

First Instance: Commercial Courts and Tribunals of Grand Instance

Tribunaux de Commerce et Tribunaux de Grande Instance Number of judges: 300

All 136 Commercial Courts and 164 *Tribunaux de Grande Instance* are competent to hear cases between private parties involving the attribution of State aid. The principle of specialisation, whereby only eight such courts are competent for anti-trust infringements, does not apply for cases involving State aid. The Ministry of Justice estimates that one judge per court deals with State aid issues.

Second Instance: Courts of Appeal (Civil and Commercial Chambers)

Cours d'Appel Number of judges: c. 250

The 36 Courts of Appeal may hear appeals in cases between private parties involving the attribution of State aid. Appeals from the Commercial Courts are heard in the commercial divisions of the Courts of Appeal and from the *tribunaux de grande instance* in the civil chambers.

Final Instance: Court of Cassation (First section of the Commercial, Financial and Economic Chamber)

Cour de Cassation Number of judges: 15

The Court of Cassation is the final instance for cases between private parties involving the illegal attribution of State aid.

10.4. Judicial training

Since 2008, five days per year of judicial training has been compulsory in the ordinary judicial order, however training in EU law is not compulsory. In the administrative judicial order, judicial training is not compulsory but the Vice-President of the Council of State has set the target of each judge receiving at least three days of training per year. Training for members of the ordinary judicial order is provided by the National School for the Judiciary (*Ecole Nationale de la Magistrature*, ENM); each judge is required to attend one session at the ENM per year. Training for judges of the administrative order is provided by the *Centre de formation de la jurisdiction administrative* (CFAJ) of the Council of State.

In France there is no requirement of economic knowledge to become a judge. Judges can, however, be seconded to national competition authorities, where they acquire valuable expertise in economics.

National School for the Judiciary

Ecole Nationale de la Magistrature
10, rue des frères Bonie, 33080 Bordeaux Cedex
Tel: 05.56.00.10.10
Email: nathalie.malet@justice.fr

Since 2004, the ENM has organised a three-day conference on competition law every two years. The series was launched with a conference in March 2004, two months before the entry in force of Regulation 1/2003, which was attended by 100 judges (50 from commercial courts, 50 from courts of appeal and the Court of Cassation). Subsequently, following the entry into force of Decree No 2005-1756 of 30 December 2005 introducing the current system of judicial specialisation as from 1 January 2006, seminars have been held at the ENM in Paris in March 2006, 2008, 2010, and 2012 and 2014 and attended by 30-50 judges on average. The total number of French judges of the ordinary judicial order trained in EU competition law can be estimated between 220 and 300.

Lawyers, academics, staff of the French NCA, representatives of the EU Commission, and economists all participate in these sessions. The ENM also organises regional training sessions for judges on competition law. The ENM has not received funding from DG Competition's "Training for Judges" Programme since 2002.

Among the events organised by the ENM in the past years that concern EU competition law were "Competition Law for Specialised Courts", "Recent Case Law of the Commercial Division of the Court of Cassation, including cases in competition law" and a five-day group training for French magistrates at the CJEU including training on EU competition law.

Council of State

Conseil d'Etat
Centre de formation de la juridiction administrative
1 Place du Palais Royal, 75001 Paris
Tel: +33 140208000
Email: sylvie-anne.lafolie@conseil-etat.fr

No specific training was organised recently by the *Centre de formation de la juridiction administrative* (Training Centre for the Administrative Jurisdiction) on State aid or more generally competition law. It should be noted that there is a very limited number of such cases, in particular before first-instance administrative courts and appeal courts.

Other providers of training to judges on EU competition law

Training for judges is organised internally within the **Court of Appeal of Paris** and the **Court of Cassation** themselves, and the **Competition Authority** (Autorité de la Concurrence) also opens training to judges, for example a two-day workshop in 2015 on 'Basic training in competition law - actions for compensation for damage suffered by victims of anti-competitive practices'.

In 2006 the **Court of Cassation** received funding from the "Training for Judges" programme for a seminar on 'The economics of competition and markets'.

10.5. Networking

Nationally-organised trainings such as the activities provided by ENM are aimed exclusively at French judges. French-speaking judges from other Member States are, however, welcome to attend training events, and sometimes lawyers in private practice may participate. There has been low attendance from French judges in EU programmes such as competition law seminars offered by ERA and EUI, and France had only 98 participants in the "Training for Judges" Programme from 2007 to 2013. This can be explained by a combination of the substantial offer of training at national level and the significant degree of specialisation of courts responsible for both public and private enforcement of competition law.

11. Germany

11.1. Competent courts for public enforcement

First Instance (Judicial Review of Regional Cartel Authorities' Decisions)**: Higher Regional Courts** (Antitrust Divisions)

Oberlandesgerichte (OLG) Number of judges: 105
Karlsruhe, Stuttgart; München, Nürnberg; Berlin, Bremen, Brandenburg, Hamburg, Frankfurt am Main, Rostock, Celle, Düsseldorf, Koblenz, Saarbücken, Dresden, Naumburg, Schleswig, Jena

Each *Land* has a *Land* cartel authority (*Landeskartellbehörde*), set up by the Economics Ministry of the respective *Land,* responsible for applying the *Gesetz gegen Wettbewerbsbeschränkungen* (GWB, Act Against Restraints of Competition) to cases in which a breach of domestic competition law has occurred within the borders of the *Land* (§ 48 GWB). Decisions taken by the *Landeskartellbehörde* may be reviewed by the antitrust division of the competent *Oberlandesgericht* of that *Land*; each OLG is obliged to establish an antitrust division (§91 GWB). The *Land* authorities have the power to centralise jurisdiction according to §92 GWB in a *Land* with more than one *Oberlandesgericht*. 18 OLGs in Germany deal with competition law matters.

First Instance (Judicial Review of Federal Cartel Authority's Decisions)**: Higher Regional Court of Düsseldorf** (Antitrust Divisions)

Oberlandesgericht Düsseldorf Number of judges: 20
Cecilienallee 3, 40474 Düsseldorf
Tel: +49 211 49710
E-mail: poststelle@olg-duesseldorf.nrw.de

The OLG Düsseldorf has exclusive jurisdiction for the public-law review of decisions of the *Bundeskartellamt* (BKartA, Federal Cartel Office), which has its seat in Bonn in the *Land* of North Rhine-Westphalia (NRW). The OLG Düsseldorf is NRW's centrally competent OLG for competition review cases. Of the 160 judges in the OLG Düsseldorf, 20 sit in five antitrust divisions; some of them also sit in other specialised divisions.

Final Instance: Federal Court of Justice (Antitrust Division)

Bundesgerichtshof (Kartellsenat) Number of judges: 8
Herrenstraße 45 A, 76133 Karlsruhe
Tel: +49 721 1590
Email: poststelle@bgh.bund.de

The decisions of the *Oberlandesgerichte* – and of the OLG Düsseldorf concerning the actions of the BKartA – can be appealed to the Antitrust Division of the Federal Court of Justice (BGH, *Bundesgerichtshof*) on points of law only and provided that leave to appeal is granted by the OLG or the BGH approves a complaint against the denial of leave.

Of the 128 judges in the BGH, there are eight judges in the specialised *Kartellsenat* (antitrust division), including the president of the BGH who chairs this section. The other judges are appointed from other divisions of the court (six from the civil law divisions and one from a criminal law division). Once appointed to the *Kartellsenat*, there is no restriction on the length of time that a judge may serve.

11.2. Competent courts for private enforcement

First Instance: Regional Courts

Landgerichte (LG): Number of judges: c. 139
Mannheim, Stuttgart; München I, Nürnberg-Fürth; Berlin; Bremen; Potsdam; Hamburg; Frankfurt am Main, Kassel; Rostock; Hannover; Dortmund, Düsseldorf, Köln; Mainz; Saarbrücken; Leipzig; Magdeburg; Kiel; all four LGs of Thüringen: Erfurt, Gera, Meiningen, Mühlhausen

Whereas *Amtsgerichte* (local courts) usually have first-instance competence in private law matters with a value up to €5,000, the law assigns exclusive competence to hear private-law cases in cartel matters to the *Landgerichte* (regional courts), regardless of the value of the claim (§ 87 GWB).

There are 115 *Landgerichte* across Germany but the German *Land* authorities have the power to centralise jurisdiction regarding competition law according to § 89 GWB if such centralisation serves the administration of justice. Therefore, 24 *Landgerichte* have exclusive jurisdiction to deal with private actions in competition law – in Thüringen this centralisation has not occurred, therefore all four *Landgerichte* in this *Land* may hear competition law cases.

Private-law cases regarding competition are heard in specialised cartel divisions that usually decide in panels of three judges.

Second Instance: Higher Regional Courts (Antitrust Divisions)

Oberlandesgerichte (OLG) Number of judges: 105

The Higher Regional Courts hear appeals from the Regional Courts on points of law but to a certain extent also on substance. A decision of the LG may be revised regarding a violation of law or on facts and circumstances if doubts arise as to the LG's correct and complete establishment of the relevant facts, or if new facts and circumstances may be considered under the German law on civil procedure (§529 ZPO, German law on civil procedure).

The *Land* authorities also have the power to centralise jurisdiction for appeals in private-law cases according to §§92-93 GWB in a *Land* with more than one *Oberlandesgericht*.

Final Instance: Federal Court of Justice (Antitrust Division)

Bundesgerichtshof (Kartellsenat) Number of judges: 8

The decisions of the *Oberlandesgerichte* regarding private-law actions can be appealed to the Federal Court of Justice on points of law only, where the OLG has given leave to appeal or the BGH approves a complaint against the denial of leave to appeal. Such appeals are heard by the Antitrust Division.

11.3. Competent courts for State aid-related cases

In contrast to competition cases, in Germany cases involving State aid are divided between administrative and civil courts. In particular, actions to recover illegal aid will in general be decided by administrative courts if the aid has been granted by an entity which is subject to public law (e.g. by the State or a municipality). Private actions resulting from the illegal attribution of State aid may also go to administrative courts, e.g. if a competitor wants to force the government to recover an illegal aid, but may also incidentally be decided by civil courts. For standstill actions to prevent the attribution of aid, the competent court again depends on the entity allegedly granting the aid and from the type of aid. In general, the administrative courts are competent but one exception may be private actions resulting from not observing a standstill obligation. There have been several decisions of that kind by the Federal Court of Justice (1st Civil Division) based on the German Law on Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb* – UWG).

(a) Administrative Courts

First Instance: Administrative Courts or **Tax Courts**

Verwaltungsgerichte (VG) Number of judges: 1,525
52 Administrative Courts

Finanzgerichte (FG) Number of judges: 600
18 Tax Courts

In each of the German *Länder*, there is at least one (general) Administrative Court, besides the courts of the two specialised administrative jurisdictions for social (*Sozialgerichte*) and for tax (*Finanzgerichte*) matters (for each of which a separate, fully-fledged two- or three-instance jurisdiction exists, with three distinct Federal Courts at Supreme Court level). Outside the rather narrow areas of social or tax law, access to justice in cases attacking public-authority decisions concerning the grant or recovery of State aid is open to the general administrative courts.

Cases in the area of fiscal State aid may be heard by the 18 Tax Courts, which are first-instance courts the decisions of which cannot be appealed against at *Land* level.

Second Instance (Administrative Courts)**: Higher Regional Administrative Courts**

Oberverwaltungsgericht (OVG) or **Verwaltungsgerichtshof (VGH)** Number of judges: 398
16 Higher Regional Administrative Courts

Each of the German *Länder* has one Higher Administrative Court, which hears appeals against decisions by an Administrative Court on matters of facts and law. The Higher Administrative Courts are also first-instance courts for actions challenging the validity of by-laws (*Satzungen*) adopted by public corporate bodies such as municipalities, which could possibly determine conditions for the attribution of State aid.

Final Instance: Federal Administrative Court (10th Division) or **Federal Tax Court**

Bundesverwaltungsgericht (BVerwG, 10. Senat)
Federal Administrative Court
Number of judges: 6

Bundesfinanzhof (BFH)
Federal Tax Court
Number of judges: 60

The Federal Administrative Court is the court of final instance for public-law actions within the competence of the general administrative courts. Its 10th Division is competent for State aid matters. The Court is seized in the framework of the so-called revision appeal only on matters of (federal) law.

The Federal Tax Court is the court of final instance for public-law actions within the competence of the tax courts. The Court is seized in the framework of the so-called revision appeal only on matters of law.

(b) Civil courts

First Instance: Regional Courts

Landgerichte (LG): Number of judges: c. 990

A landmark decision of the Federal Court of Justice of 10 February 2011 (I ZR 136/09) has clarified that the ordinary (civil) courts have competence for standstill or recovery actions by competitors of a beneficiary of illegal State aid. As such claims are based on tort law and the Act on Unfair Competition (UWG) and not on the Acts on Restraints against Competition (GWB), no exclusive competence assignment applies. Theoretically, *Amtsgerichte* (local courts) will have first-instance competence if the value of the claim is up to €5,000. In all other cases, the *Landgericht* (regional court) where the defendant has its seat will be competent. This applies to all 115 *Landgerichte* across Germany. It can be assumed that on average in each of the 115 Landgerichte there will be at least two divisions of three professional judges that could be seized to hear a case on illegal State aid.

Second Instance: Higher Regional Courts (Antitrust Divisions)

Oberlandesgerichte (OLG) Number of judges: c. 135

The Higher Regional Courts hear appeals from the Regional Courts on points of law but to a certain extent also on substance. A decision of the LG may be revised regarding a violation of law or on facts and circumstances if doubts arise as to the LG's correct and complete establishment of the relevant facts, or if new facts and circumstances may

be considered under the German law on civil procedure (§529 ZPO, German law on civil procedure).

With regard to State aid cases decided by the Regional Courts, any of the 24 *Oberlandesgerichte* in Germany may be competent to hear the appeal, as – unlike for cartel cases – no centralisation of competence has been introduced.

Final Instance: Federal Court of Justice (Civil Divisions)

Bundesgerichtshof (Zivilsenate) Number of judges: 85

The 1st Civil Division of the Federal Court of Justice (composed of 8 judges) has exclusive competence for State aid cases brought under §4(11) UWG. For other (recovery) cases, however, any of the other eleven Civil Divisions could be competent.

11.4. Judicial training

Judicial training in Germany, like the administration of justice, is a competence of the *Länder*; the federal government is only in charge of training federal judges (essentially supreme court judges). The main provider of continuous training at the national level is the German Judicial Academy (DRA, *Deutsche Richterakademie*).

German Judicial Academy (DRA)

Deutsche Richterakademie
Berliner Allee 7, 54295 Trier
Tel: +49 651 93610
Email: trier@deutsche-richterakademie.de

The DRA is operated and funded entirely as a joint venture by the Federal Government and all 16 *Länder*. The training is provided only to judges and prosecutors; lawyers in private practice are not allowed to take part. Previous training in competition law for German judges has been provided by ERA; a conference on the German law on unfair competition, with a small amount of EU competition law, was run in 2015, but generally training in this area is only of very limited importance in the study programme of the DRA.

Other providers of training to judges on EU competition law

Designated institutions in the Länder

Länder-level training is funded mostly by the *Land,* and partly by registration fees of those receiving training. Judicial training in the *Länder* is provided by the respective ministries of justice or designated academic institutions associated thereto. However, almost all *Länder* have not provided training in the field of EU competition law in recent years, often because the demand is too low, but rather promote training provided by ERA and the DRA. Two *Länder* have provided some EU competition law training to judges within their region:

- **Niedersachsen** (Lower Saxony) Ministry of Justice: training on EU competition law was provided in 2013, but no training in this area has been provided since;

- **Sachsen** (Saxony) Ministry of Justice: regular training on the application of EU law is provided, which includes some competition law training.

Academy of European Law (ERA)

The Academy of European Law has been a key provider to the German judiciary in the field of competition law.

The "Training for Judges" Programme has been used by ERA to provide the following training activities for the German judiciary:

- 2002: 'Seminar in the Framework of the EJTN on the Role of the National Judges in a Decentralised Application of EC Competition Law' with partners in five Member States including the **Ministry of Justice of Nordrhein-Westfalen**:
- 2007: 'Training of the Finnish and German Judiciary on EC Competition Law' in cooperation with the German Federal **Ministry of Justice**.
- 2011: 'Training of the German Judiciary on the enforcement of EU State aid rules'.
- 2013: 'Advanced Training of National Judges on the Application of European Competition Law Rules – a Series of Six Regional Seminars Across Europe' in cooperation with the **DRA**.

Other training providers who received "Training for Judges" programme grants:

- 2005-7: 'EU Competition Law'; 'EU Competition Law'; and 'Seminars in European Competition Law' organised by ***Zentrum für Europarecht an der Universität Passau*** (Centre of European Law at the University of Passau).
- 2011-13: "Series of Three Competition Law Seminars for National Judges"; "Series of Two Competition Law Seminars for National Judges" organised by **Leuphania University of Lüneburg**.
- 2014: The **TRAJECT Project** organised by Péter Pázmány University (Hungary) and Radboud University (Netherlands) was hosted by the University of Münster for judges from the three respective countries.

Judges in the BGH and the OLG Düsseldorf, who deal with public-law review at the national level, also benefit from being invited to competition law training opportunities such as the annual conference of the ***Bundeskartellamt*** on current developments, an annual economics training provided by the Düsseldorf Institute for Competition Economics (**DICE**) and conferences organised by the ***Studienvereinigung Kartellrecht***, an association of lawyers in private practice dealing with competition law.

11.5. Networking

The DRA trains only the German judiciary and has not organised seminars regarding competition law open to the judiciary of other Member States.

Apart from international events such as those organised by AECLJ, ERA and the European University Institute in Florence, most training activities in EU competition law for German judges do not allow for networking with judges from other jurisdictions.

12. Greece

12.1. Competent courts for public enforcement

(a) Judicial review

First Instance: Athens Administrative Court of Appeal

Διοικητικό Εφετείο Αθηνών Number of judges: 165
(Athens Administrative Court of Appeal)
Louizis Riankour 87
115 24 Athens
Tel. +30 210 6962254

The Athens Administrative Court of Appeal has exclusive jurisdiction to exercise a full review of the merits of decisions of the Hellenic Competition Commission. The Greek Competition Act provides that specialised competition chambers can be established within the Athens Administrative Court of Appeals, the aim being to further enhance the effectiveness of judicial review, but such chambers have not yet been established.

Final Instance: Council of State (Second Chamber)

Συμβούλιο της Επικρατείας Number of judges: 20
Panepistimiou 47
105 64 Athens
Tel. +30 210 3710 098

Judgments by the Administrative Courts of Appeal can be appealed on points of law (cassation) to the Council of State. The Second Chamber of the Council of State is competent, inter alia, for competition law cases.

(b) Criminal sanctions

First Instance: Single-Member Lower Criminal Court

Μονομελές Πλημμελειοδικείο Number of judges: 732
(Single-Member Lower Criminal Court)
c/o Ministry of Justice, Transparency & Human Rights
96 Mesogeion Av.
11527 Athens
Tel. +30 (210) 776 7322

In Greece, criminal sanctions apply for infringements of competition law pursuant to Article 44 of Law 3959/2011 on the protection of free competition. The criminal

prosecution is independent of the authority's actions. Nevertheless, under Article 43 of Law 3959/2011, if the Hellenic Competition Commission has found that the rules concerning anticompetitive agreements and concerted practices, abuse of a dominant position and concentrations have been infringed, it should make a relevant announcement to the competent prosecutor.

Second Instance: Three-Member Lower Criminal Court

Τριμελές Πλημμελειοδικείο Number of judges: 732
c/o Ministry of Justice

First-instance judgments issued by the single-member lower criminal courts can be appealed to the three-member lower criminal courts, which try cases on both the facts and the law. Neither composition is specialised in competition law.

Final Instance: Supreme Court (Criminal Chambers)

Άρειος Πάγος Number of judges: 18
121 Alexandras Av
115 22 Athens
Tel. +30 210 6411506

Judgments by the lower courts may be appealed to the Supreme Court, which deals with questions of law only. The Supreme Court has no division specialised in competition law.

12.2. Competent courts for private enforcement

First Instance: District Civil Courts or **Civil Courts of First Instance**

Ειρηνοδικεία Number of judges: 716
(District Civil Courts)
c/o Ministry of Justice, Transparency & Human Rights
96 Mesogeion Av.
11527 Athens
Tel. +30 (210) 776 7322
mntolia@justice.gov.gr
civilunit@justice.gov.gr

For private enforcement, civil courts are competent for hearing actions including actions for damages resulting from the violation of competition law rules. The case begins in the District Civil Court ("justices of the peace") if the value of the case does not exceed €20,000. The competent court is determined by either the domicile/seat of the defendant (Article 22 CPC) or the area where the harmful event occurred or may occur (Article 35 CPC). District Civil Courts are not specialised in competition law.

Πρωτοδικεία Number of judges: 732
(Civil Courts of First Instance)
c/o Ministry of Justice

If the value of the case exceeds €20,000, the competent court is the Civil Court of First Instance, with a single judge panel (Article 14(2) CPC) provided the value of the case remains below €250,000; if it is above that sum, the Civil Court of First Instance sits as a panel of three judges. The Civil Courts of First Instance are not specialised in competition law and have no specialised chambers or divisions.

Second Instance: Courts of Appeal (Civil Chambers)

Εφετεία Number of judges: 440
c/o Ministry of Justice

First-instance judgments issued by District Civil Courts or Civil Courts of First Instance can be appealed to the Courts of Appeal, which try cases on both the facts and the law. The thirteen Courts of Appeal are not specialised in competition law and have no specialised chambers or divisions.

Final Instance: Supreme Court (Civil Chambers A and B)

Άρειος Πάγος Number of judges: 17
121 Alexandras Av
115 22 Athens
Tel. +30 210 6411506

Judgments by the lower civil courts may be appealed to the Supreme Court, which deals with questions of law only. The Supreme Court has no division specialised in competition law.

12.3. Competent courts for State aid-related cases

(a) Administrative order

First Instance: Administrative Courts of First Instance

Διοικητικά πρωτοδικεία Number of judges: 427

If State aid is granted by means of an administrative contract, or if the administrative act refers to taxation or to the collection of public income, such agreement or act may be challenged before the two administrative courts.

First-instance administrative courts also have jurisdiction over actions for damages (under Articles 105-106 of the Introduction to the Civil Code) against the State and legal persons governed by public law and for illegal acts or omissions of their organs in the exercise of public power. In accordance with decision 618/2004 of the Greek Supreme Court (*Arieos Pagos*), both actions against the State relating to the grant of State aid to an undertaking's productive activity and the resulting actions against the State for damages constitute substantive administrative acts to be judged by administrative courts.

The Administrative Courts of First Instance are not specialised and sit as panels of one or three judges.

Second Instance: Administrative Courts of Appeal

Διοικητικό Εφετείο Number of judges: 182

The two Administrative Courts of Appeal are competent to hear appeals against first-instance judgments of the Administrative Courts of First Instance in State aid cases.

Final Instance: Council of State

Συμβούλιο της Επικρατείας Number of judges: 169
Panepistimiou 47
105 64 Athens
Tel. +30 210 3710 098

Judgments by the Administrative Courts of Appeal in State aid cases can be appealed on points of law (cassation) to the Council of State. There is no specific chamber for State aid matters as such. The identity of the chamber depends on the matter that is most relevant. For example, if the State aid has been granted through a tax advantage, the Second Chamber will be competent; if the State aid was granted by means of a social security advantage, the First Chamber will be competent, etc.

Moreover, the Council of State is competent at first instance if State aid is granted by an enforceable administrative act (such as a ministerial decision), regardless of whether it implements a law on State aid in a specific case or is issued ad hoc. The competent division of the Council of State may submit the case to the Plenary of the Council if it considers it to be of general importance: it must do so if it considers a provision unconstitutional. Judgments of the Council of State are not subject to further appeal.

(b) Ordinary judicial order

First Instance: District Civil Courts or Civil Courts of First Instance

Ειρηνοδικεία Number of judges: 716
c/o Ministry of Justice

Civil courts may adjudicate actions relating to State aid awarded by private law undertakings (for example, an action against an act of the Agricultural Bank of Greece, which is a private law bank under State control, providing for the discharge or the favourable settlement of agricultural cooperatives' debt). The case begins in the District Civil Court if the value of the case does not exceed €20,000.

Πρωτοδικεία
c/o Ministry of Justice Number of judges: 732

If the value of the case exceeds €20,000, the competent court is the Civil Court of First Instance.

Courts of Appeal (Civil Chambers)

Εφετεία Number of judges: 440
c/o Ministry of Justice

A first-instance judgment issued by a District Civil Court or a Civil Court of First Instance can be appealed to the Court of Appeal.

Supreme Court (Civil Chambers)

Άρειος Πάγος Number of judges: 59

Judgments by the lower civil courts may be appealed to the Supreme Court.

12.4. Judicial training

National School of Judges

Ethniki Scholi Dikastikon Leitourgon
Po Box 22
CP 55102 Thessaloniki
Tel: +30 23 10 494 101
info@esdi.gr

Continuous training is provided by the National School of Judges. The National School of Judges is a legal entity of public law, which is under the jurisdiction of the Ministry of Justice and is administered by Justices of the High Court. 48% of funding for judicial training comes from EU projects and 52% from the State. Lawyers in private practice are permitted to participate in judicial training from time to time.

Other providers of training to judges on EU competition law

Greek judges participated in the following seminars organised by **ERA** with funding from the "Training for Judges" programme:

- "Training of National Judges - Raising awareness on some competition related issues concerning the pharmaceutical sector inquiry", 2011
- "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law", 2012
- "Training of the National Judiciary in Antitrust Law", 2014
- "Advanced training of national judges on the application of European law", 2015

Training also takes place externally through AECLJ conferences and OECD conferences each year in February, which provide opportunities to meet and share best practice solutions with judges from other jurisdictions.

The **Athens University of Economics and Business Research Center** organised a seminar series with funding from the "Training for Judges" programme between October 2010 and June 2012 entitled "Training of national judges in EC Competition Law: Anticompetitive Agreements, Unilateral Conduct Mergers, State Aid."

The **European Public Law Organisation** (EPLO) was a direct beneficiary of the "Training for Judges" programme in 2014 running seminars entitled "Training of national judges in Bulgaria, Cyprus and Greece on enforcement of EU Competition law."

12.5. Networking

There is no internal/national network for judges applying competition law but a number of judges are members of the Association of European Competition Law Judges.

13. Hungary

13.1. Competent courts for public enforcement

First Instance: Budapest Metropolitan Administrative and Labour Court

Fővárosi Közigazgatási és Munkaügyi bíróság Budapest
c/o National Office for the Judiciary
HU-1055 Budapest, Szalay u. 16.
HU-1363, Pf.: 24
Tel. +36-1-354-4100
obh@obh.birosag.hu

Number of judges: 6

There are 20 Administrative and Labour Courts (*Közigazgatási és Munkaügy Bíróságok*), one for each region in Hungary. The Budapest Metropolitan Administrative and Labour Court has exclusive jurisdiction in cases where the competence of the relevant administrative agency covers the whole country (Art. 326 (7) of Act III of 1952 on the Code of Civil Procedure). This is the case with the Hungarian Competition Authority (Art. 46 of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices). Of the 60 judges, six deal with the judicial review of competition authority decisions.

Second Instance: Regional Court of Budapest

Törvényszékek
c/o National Office for the Judiciary

Number of judges: 7

The Budapest Regional Court holds exclusive competence and jurisdiction for appeals based on the facts or law against judgments of the Budapest Metropolitan Administrative and Labour Court. Seven civil judges deal with competition law cases within the court.

Final Instance: Supreme Court (Administrative and Labour Law Department)

Kúria
Markó utca 16.
HU- 1055 Budapest
Tel. +36-1-268-4500
kuria@kuria.birosag.hu

Number of judges: 11

Appeals related to public-law control of decisions by the National Competition Authority (GVH) fall within the competence of the Administrative and Labour Law Department of the Supreme Court. They may be heard on points of law only. In 2013, there were seven such cases registered at the Supreme Court, in 2014 four. These cases are regularly dealt with by Administrative Chambers no. II (five in 2013 and two in 2014) and no. III (two in 2013 and two in 2014). Accordingly, there are eleven judges who might potentially be assigned to deal with such cases.

13.2. Competent courts for private enforcement

First Instance (below HUF30m)**: District Courts**

Járásbíróságok Number of judges: 1513
c/o National Office for the Judiciary

The 111 District Courts are competent to hear private actions below the value of HUF 30,000,000 (c. €100,000) at first instance. The courts are not specialised in competition law and have no specialised chambers or divisions.

First (above HUF30m) **or Second** (below HUF30m) **Instance: Regional Courts**

Törvényszékek Number of judges: 1039
c/o National Office for the Judiciary

There are 20 Regional Courts, one for each region. The courts are not specialised in competition law and have no specialised chambers or divisions. The Regional Courts are competent at first instance for private cases above the value of HUF 30,000,000 (c. €100,000) and at second instance on appeal for cases from the District Courts.

Second Instance (above HUF30m)**: Regional Courts of Appeal**

Ítélőtáblák Number of judges: 143
Budapest, Debrecen, Győr, Pécs and Szeged
c/o National Office for the Judiciary

There are five Regional Courts of Appeal, which hear appeals at second instance from the Regional Courts. The Courts of Appeal are not specialised in competition law.

Final Instance: Supreme Court (Civil Department)

Kúria Number of judges: 5

Appeals on points of law resulting from private actions related to antitrust infringements fall within the competence of the Civil Department of the Supreme Court. In 2013, there were six such cases registered at the Supreme Court, while in 2014 there were seven. These cases are regularly dealt with by Chamber no. VII. Accordingly, five judges might potentially be assigned to deal with such cases.

13.3. Competent courts for State aid-related cases

First Instance: District Courts

Járásbíróságok Number of judges: 1513

The 111 District Courts are competent at first instance to hear standstill actions to prevent the attribution of State aid, actions to recover illegally attributed state aid and private actions resulting from illegal attribution of State aid.

Second Instance: Regional Courts

Törvényszékek Number of judges: 1039

The 20 Regional Courts are competent at second instance for actions related to State aid.

Third Instance: Regional Courts of Appeal

Ítélőtáblák Number of judges: 143

The five Regional Courts of Appeal hear appeals at second instance from the Regional Courts and at third instance from the District Courts.

Final Instance: Supreme Court

Kúria Number of judges: 92

13.4. Judicial training

Training for judges is organised and administered through the Judicial Academy under the auspices of the National Office for the Judiciary. Continuous training is compulsory as of September 2011 as a precondition for the promotion of judges.

Judicial Academy

Magyar Igazságügyi Akadémia
National Office for the Judiciary
HU-1055 Budapest, Szalay u. 16.
HU-1363, Pf.: 24
Tel. +36-1-354-4100
obh@obh.birosag.hu

The Judicial Academy is a member of EJTN and the Lisbon Network (since January 2011, a new impulse has been given to the Lisbon Network and its activities have been integrated to those of the CEPEJ) and has bilateral agreements with other European actors as well. Lawyers in private practice are not allowed to participate in the training activities of the Academy.

The Office of the National Council of Justice (as it was then called) was a direct beneficiary of funding from the "Training for Judges" programme in 2005 running a seminar series lasting nine months under the title "Training of Hungarian, Bulgarian and Romanian judges in EC Competition Law."

Other providers of training to judges on EU competition law

Hungarian judges attended the following seminars run by **ERA** with funding from the "Training for Judges" programme:

- "Training of National Judges - Raising awareness on some competition-related issues concerning the pharmaceutical sector inquiry", 2011
- "The role of national judges in assisting the European Commission and the National Competition Authorities in the conduct of inspections for the enforcement of EU competition law", 2012
- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU", 2012

The **Hungarian Competition Authority (GVH)**, together with OECD experts has organised 17 competition law seminars for national judges over the last ten years. Since 2005 the GVH has held on average two competition law training seminars per year for a total of 650 judges from across Europe – since 2009 with funding from the "Training for Judges" programme. 16 Hungarian judges have participated in these seminars. Topics included case law and competition economics.

The **Pázmány Péter Catholic University** was also a direct beneficiary in 2009 running a seminar entitled "Advanced training of national judges in EC competition law."

13.5. Networking

A network of judges acting as special advisors in cases with EU law implications is maintained by the National Office for the Judiciary.

Five 'Regional Administrative and Labour Colleges' operate with the objective to co-ordinate the administration of justice by Administrative and Labour Courts and Regional Courts in respective regions. As regards competition law cases, the College for Budapest-Capital is of importance since Budapest-based courts have competence for public law control of NCA decisions.

The *Kúria* is represented in the Association of European Competition Law Judges (AECLJ).

14. Ireland

14.1. Competent courts for public enforcement

Ireland's national competition authority, the Competition and Consumer Protection Commission (CCPC), can pursue the enforcement of EU competition law through either the civil or the criminal courts, depending on the nature of the case. Cartels offences, in particular, are the subject of a criminal prosecution. Abuse of dominance and other anti-competitive behaviour may be the subject of civil proceedings by the CCPC. For this reason, enforcement by the CCPC through the civil courts is presented separately from private enforcement by other parties.

(a) Enforcement in the criminal courts

First Instance (Summary Prosecution)**: District Court**

c/o The Courts Service
15-24 Phoenix Street North
Smithfield
Dublin 7
Tel. +353 1 888 6000

Number of judges: 64

The CCPC can bring a summary prosecution for less serious anti-competitive or abusive offences before the District Court. Such cases are heard by a single judge without a jury and the maximum penalty is a fine of €5,000. There are 25 Districts with one judge permanently assigned and 20 moveable judges, as well as the Dublin Metropolitan Area with 18 judges.

First Instance (Prosecution on Indictment) **and Final Instance** (Summary Prosecution)**: Circuit Criminal Court**

Number of judges: 44

c/o The Courts Service

In more serious cases, with the exception of cartels, the CCPC can send the file to the Director of Public Prosecutions (DPP) with a recommendation to pursue a prosecution on indictment before the Circuit Criminal Court. Such cases are heard by a judge and jury and the maximum sanction available is a fine of €5,000,000 or 10% of turnover. The Circuit Criminal Court also hears appeals from the District Courts, on which its decision is final. There are eight circuits with one judge permanently assigned to each circuit, except Dublin and Cork, where there are ten and three judges permanently assigned respectively, with the remaining judges unassigned to a specific circuit.

First Instance (Cartels): **Central Criminal Court**

Central Office of the High Court Number of judges: 37
Four Courts
Dublin 7
Tel. +353 1 888 6511/6512
HighCourtCentralOffice@courts.ie

The Central Criminal Court (i.e. the High Court exercising its criminal jurisdiction) has exclusive jurisdiction to hear criminal cases relating to "hardcore" anti-competitive offences, mainly cartels (Competition Act 2002). Normally trials are conducted by a single judge sitting with a jury of twelve people. The maximum penalty available is a fine of up to €5,000,000 or 10% of turnover and/or ten years imprisonment.

Second Instance: **Court of Appeal**

Office of the Court of Appeal - Criminal and Military, Number of judges: 10
4th Floor,
Criminal Courts of Justice,
Parkgate Street, Dublin 8
Tel +353 1 798 8004
E-mail: courtofappealcriminal@courts.ie

As of 2014, appeals regarding criminal sanctions from either the Circuit Criminal Court or the Central Criminal Court can be brought before the newly created Court of Appeal), which subsumed the jurisdiction of the previous Court of Criminal Appeal.

Final Instance: Supreme Court

Four Courts Number of judges: 10
Dublin 7
Tel. +353 1 888 6569
SupremeCourt@courts.ie

The Supreme Court may hear an appeal from the Court of Appeal if the relevant decision "involves a matter of general public importance" or if it takes the view that it is in the interests of justice that such an appeal should be heard. In exceptional circumstances, and subject to the same conditions, the Supreme Court may also hear an appeal directly from the Central Criminal Court (known as a "leapfrog appeal").

(b) Enforcement in the civil courts

First Instance: High Court

Central Office of the High Court Number of judges: 37
Four Courts
Dublin 7
Tel. +353 1 888 6511/6512
HighCourtCentralOffice@courts.ie

The CCPC may bring civil proceedings before the High Court to compel parties to stop illegal activity such as agreements that may have anti-competitive effects (but are not considered to be hardcore cartels) or abuse of dominance in a sector of the economy. The High Court is also responsible for public-law control of the CCPC's decisions.

Second Instance: Court of Appeal

Office of the Court of Appeal - Civil,
Ground floor,
Áras Uí Dhálaigh,
Inns Quay, Dublin 7
Tel +353 1 888 6120
E-mail: courtofappealcivil@courts.ie

Number of judges: 10

Before 2014, appeals from the High Court in civil proceedings went to the Supreme Court. As of 2014, such appeals go to the newly created Court of Appeal.

Final Instance: Supreme Court

Number of judges: 10

As well as appeals from the Court of Appeal, the Supreme Court may in exceptional circumstances hear appeals directly from the High Court (known as a "leapfrog appeal").

14.2. Competent courts for private enforcement

First Instance: District Court

Number of judges: 64

Although technically competent to hear civil actions resulting from anti-competitive behaviour, the jurisdictional limit for damages of €15,000 and the lack of any other form of possible relief means that no such actions have commenced or are likely to commence in the District Court.

First or Final Instance: Circuit Court

Number of judges: 44

The Circuit Court is competent to hear any civil action related to anti-competitive behaviour or abusive practice and, by way of relief, can grant an injunction or declaration or award damages up to a limit of €75,000. It would also be competent to hear appeals from the District Court if any such action were ever to arise, in which case its decision would be final.

First or Second Instance: High Court

Number of judges: 37

As well as the CCPC, any "aggrieved person" may bring an action before the High Court, which has the same jurisdiction as the Circuit Court but without the limitation on damages. The High Court also hears appeals from the Circuit Court in civil cases.

Second or Third Instance: **Court of Appeal**

Number of judges: 10

Appeals from the High Court in civil proceedings are now heard by the Court of Appeal.

Final Instance: Supreme Court

Number of judges: 10

As well as appeals from the Court of Appeal, the Supreme Court may exceptionally hear appeals directly from the High Court.

14.3. Competent courts for State aid-related cases

First Instance: District Court

Number of judges: 64

Although technically competent to hear civil actions related to State aid, the jurisdictional limit for damages of €15,000 and the threshold of €200,000 over three years contained in the *De Minimis* Regulation mean that no such action is likely to commence in the District Court.

First or Final Instance: Circuit Court

Number of judges: 44

For the same reason as the District Courts, the Circuit Court (which has a limit on claims of up to €75,000) is unlikely to hear any civil action related to State aid despite being formally competent to do so. It would also be competent to hear appeals from the District Court if any such action were ever to arise, in which case its decision would be final.

First or Second Instance: High Court

Number of judges: 37

Most civil actions related to State aid will be brought before the High Court, which has the same jurisdiction as the Circuit Court but without the limitation on damages. The High Court also hears appeals from the Circuit Court in civil cases.

Second or Third Instance: **Court of Appeal**

Number of judges: 10

Appeals from the High Court in civil proceedings are heard by the Court of Appeal.

Final Instance: Supreme Court

Number of judges: 10

As well as appeals from the Court of Appeal, the Supreme Court may exceptionally hear appeals directly from the High Court.

14.4. Judicial training

The Committee for Judicial Studies is responsible for continuous training. Appointment to specific offices requires a written undertaking to complete the appropriate courses of training and/or education required by the Chief Justice or President of the court to which that person is appointed (s19 Courts and Court Officers Act 1995). Funding for the Committee is provided by the State budget.

Committee for Judicial Studies

Phoenix House 15-24
Phoenix Street
North Smithfield Dublin 7
Tel. +353 1 888 6228
ElishaD'Arcy@courts.ie

The training provided by the Committee is solely for judges; private lawyers may not attend. The Committee for Judicial Studies organises conferences, seminars and lectures on legal subjects for members of the judiciary. Principally it organises an annual judicial conference for judges of the Superior Courts, the Circuit Court and the District Court and an annual national conference for judges of all Courts. Seminars on specific topics are also organised for each jurisdiction.

Conferences and Continuing Professional Development Sessions are organised quarterly in the District Court. These CPD sessions are also available remotely to facilitate District Court Judges.

Other providers of training to judges in the field of EU competition law

Irish judges have attended numerous seminars organised by **ERA** with support from the "Training for Judges" programme, such as "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU" in 2012.

The **Irish Centre for European Law** (ICEL) was the recipient of funding for the "Training of national judges in EC competition law and co-operation between national judges" programme in 2003. Two training seminars were organised concerning the modernisation of the implementation of EC competition law.

University College Dublin (UCD), was also the recipient of funding from the "Training for Judges" programme in 2012.

14.5. Networking

Members of the judiciary frequently attend or participate in conferences, seminars and lectures concerned with legal topics organised by outside bodies such as universities, law associations and other interest groups.

The Judicial Studies Committee has considerable contact with the Judicial Studies Board in Northern Ireland, the Judicial Institute of Scotland and the European Judicial Training Network. Members of the judiciary are also members of the UK & Ireland Judicial Studies Council and the European Network of Councils of the Judiciary.

Irish judges also participate in the Association of European Competition Law Judges, of which Mr Justice Liam McKechnie, now a judge of the Supreme Court, is a former president.

15. Italy

15.1. Competent courts for public enforcement

First Instance: Regional Administrative Court of Lazio (1st Chamber)

Tribunale Amministrativo Regionale del Lazio Number of judges: 6
Via Flaminia 189, Rome
Tel: 06328721

The Regional Administrative Court of Lazio has exclusive competence for the judicial review of decisions by the national competition authority (*Autorità Garante della Concorrenza e del Mercato*, AGCM). The court as such is a non-specialised court but the judicial review of AGCM decisions is assigned – along with other cases – to its first chamber, which is composed of six partly specialised judges. According to the European Court of Human Rights, the standard of judicial review exercised by Italian administrative courts is akin to full jurisdiction, as the judge may examine whether the competition agency's choices are well-grounded and proportionate, as well as check the validity of its technical assessments (judgment of 27 September 2011, *Menarini,* paragraph 64).

Final Instance: Council of State (6th Chamber)

Consiglio di Stato Number of members: 18
Palazzo Spada, Piazza Capo Di Ferro 13
00186 Rome
Tel: +39 06-68272531

The Council of State is the supreme administrative court in Italy. Judgments of the Regional Administrative Court of Lazio regarding the judicial review of AGCM decisions may be appealed to the Council of State on the grounds of the facts or points of law, specifically to its 6th chamber.

15.2. Competent courts for private enforcement

First Instance: Courts for Enterprises

Tribunali delle Imprese Number of judges: c. 115
c/o Ministry of Justice
Dipartimento dell'organizzazione giudiziaria
Via Arenula, 70
00186 Rome
Tel: +39 06.68851

21 specialised courts for enterprises have been established pursuant to article 2(1)(a) of DL n. 1 of 24 January 2012. They have jurisdiction over private-law competition actions based on Articles 101-2 TFEU and articles 2-3 of the Italian Competition Act 1990 (n. 287 of 10 October 1990). The courts for enterprises are mostly located in the capital cities of Italy's regions. One additional court for enterprises has been set up at the Tribunale di Bolzano by DL n. 145 of 23 December 2013.

Second Instance: Courts of Appeal (Chambers for Enterprises)

Corte d'Appello Number of judges: 117
c/o Ministry of Justice

Specialised chambers for enterprises in the Courts of Appeal hear appeals regarding private-law competition cases from the courts for enterprises. They may decide on facts and law.

Final Instance: Supreme Court of Cassation (Civil Area)

Corte Suprema di Cassazione Number of judges: 146
Palazzo di Giustizia, Piazza Cavour,
00193 Rome
Tel: +39 0668831
E-mail: cassazione@giustizia.it

The judgments of the courts of appeal regarding private-law actions may be appealed to the Court of Cassation on points of law only. While most antitrust cases will be heard by the First Chamber of the Civil Area, composed of five judges, there is no exclusivity and such cases may be assigned to any chamber in the Civil Area.

15.3. Competent courts for State aid-related cases

First Instance: Regional Administrative Courts

Tribunali Amministrativi Regionali Number of judges: 100
c/o Segretariato generale della Giustizia
amministrativa
Tel: +39 06-68272403
E-mail: cds-segretariogensegrpart@ga-cert.it

Pursuant to articles 49-50 of law n. 234 of 24 December 2012, administrative courts enjoy exclusive competence over disputes concerning measures whereby State aid is granted in breach of Article 108(3) TFEU, as well as measures giving execution to illegal aid recovery decisions.

The 29 Regional Administrative Courts are competent at first instance for actions related to the award of State aid.

Final Instance: Council of State

Consiglio di Stato
Palazzo Spada, Piazza Capo Di Ferro 13 Number of members: c. 72
00186 Rome
Tel: +39 06-68272531

The Council of State is the supreme administrative court in Italy. Judgments of any regional administrative court regarding State aid may be appealed to the Council of State on the grounds of the facts or points of law. Cases will be assigned to the chamber with competence over the administrative authority whose act is under review.

15.4. Judicial training

Judicial training in Italy is compulsory according to the Legislative Decree of 30 January 2006, n. 26 (art. 25) as amended by Law 30 July 2007, n. 111. The training of civil and commercial judges is within the remit of the Italian School for the Judiciary (*Scuola Superiore della Magistratura*, SSM) and the training of administrative judges within that of the Training and Research Department of Administrative Justice (*Ufficio Studi della Giustizia Amministrativa*, USGA).

Italian School for the Judiciary (SSM)

Scuola Superiore della Magistratura
Via Tronto 2, 00198 Roma
Tel: 0685271204-205-300
E-mail: segreteria@scuolamagistratura.it

The SSM is a public foundation which is funded 97% by the State and 3% by EU grants. Continuous training is also organised at a decentralised level, in each court of appeal district, often in coordination with the SSM.

In March 2015, for example, the **Court of Appeal of Milan** in cooperation with the SSM hosted a workshop on the new EU State aid rules and the role of national courts. And in March 2014, the SSM together with the **Court of Appeal of Rome** and the **Supreme Court** (Corte di Cassazione) organised a training event on antitrust damages actions. The Italian Competition Authority also played an active role within the conference, with specialists lecturing on the interplay between public and private enforcement.

Joint training with the national competition agency and the administrative judiciary has also been regularly organised by the SSM in recent years (see below).

The **High Council for the Magistracy** (*Consiglio Superiore della Magistratura*, CSM), which was responsible for judicial training before the creation of the SSM, was a beneficiary of the "Training for Judges" programme in 2004 and in 2002.

Training and Research Department of Administrative Justice (USGA)

Ufficio Studi della Giustizia Amministrativa
E-mail: ufficiostudi@giustizia-amministrativa.it

The training organised by the USGA is aimed at the administrative judiciary but lawyers may also participate. In 2015, for example, the USGA ran 'The Legal Order of the Market Between Regulation and Competition: a Comparison Among Energy, Healthcare and Transport Sectors' consisting of several sessions focused on competition law.

Joint training of the administrative and ordinary judiciary, often together with the competition authority, is also organised regularly, with funding from the "Training for Judges" programme. For example, the **SSM**, in cooperation with the **Italian Competition Authority** and the **Council of State**, recently received a grant from the European Commission for 'Antitrust Economics for Judges', aimed at national judges who have already acquired a good grasp of the fundamental tenets of antitrust law and wish to familiarise themselves with the economic theories, concepts and techniques increasingly employed by competition enforcers. Previously, in 2014-2015 the **Italian competition authority**, in co-operation with the SSM, the Council of State and the **French competition agency** ran 'Enforcing EU Competition Rules in National Courts', training Italian and French judges together on specific aspects of EU competition law.

Other providers of training to judges on EU competition law

532 participants from Italy benefited from the "Training for Judges" programme between 2007 and 2013. Many Italian **universities** have received funding from the European Commission and have run training events on EU competition law. However, only some of these events are tailored for judges, as they may target wider audiences such as academics, practitioners and research students. Courses provided by universities are generally not programmed on a regular basis.

- Alma Mater Studiorum – University of Bologna, European School of Advanced Fiscal Studies (ESAFS), 2012.
- Scuola Superiore della Pubblica Amministrazione (SSPA), 2011
- Centre of Studies in European and Competition Law, University of Brescia, 2010
- Università degli Studi del Molise, 2010
- Università degli Studi di Padova, 2009
- Università degli Studi di Roma Tre Dipartimento di Diritto Europeo, Studi Giuridici nella Dimensione Nazionale, Europea, Internazionale, 2009.
- CODACONS 'EU Network to Promote Training Course for National Judges', 2009-10
- Instituto Regionale di Studi Giuridici del Lazio Arturo Jemolo, 2007.
- Università degli Studi di Trento – Dipartimento di Scienze Giuridiche, 2007
- Università degli Studi di Siena, 2004.

Other training opportunities for Italian judges on EU competition law include:

- Judges may attend workshops organised by lawyers, for example several practitioners' associations co-host the biannual conference 'Antitrust Between EU and National Law'
- The **Italian Antitrust Association** regularly organises competition lunch talks, as well as a biannual conference on competition law.
- The **Observatory for Intellectual Property and Competition Law at the Luiss University in Rome** often organises events tackling various aspects of the interplay between competition policy and intellectual property rights.
- The **University of Trento** holds a biannual antitrust conference, which is also open to judges.

15.5. Networking

A key responsibility of the SSM is to promote international training initiatives and ensure the participation of Italian judges in training in other Member States. The SSM cooperates with the Spanish EJ-CGPJ (*Escuela Judicial*); Italian judges attended the 2013 'Antitrust damages, EU competition law and the role of courts: public and private enforcement of articles 101, 102 and 107 TFEU for national judges' seminar in Barcelona. The 2014-15 'Enforcing EU Competition Rules in National Courts' seminar trained French and Italian judges together on the topic of EU competition law.

Therefore a reasonable number of training events in competition law have in recent years enabled Italian judges to network with judges from other Member States.

Training from the USGA is open to administrative judges as well as lawyers.

16. Latvia

16.1. Competent courts for public enforcement

First Instance: Regional Administrative Court

Administratīvā apgabaltiesa Number of judges: 21
Baldones iela 1A, Rīga, LV-1007
Tel: (371) 67077901, 67359867
E-mail: administrativa.apgabals@tiesas.lv

There are no specialised courts in Latvia. The administrative branch deals with the public-law review of the national competition authority's decisions. Usually administrative cases are heard at first instance by the District Administrative Court and at second instance the Regional Administrative Court – both of which have jurisdiction over the entire administrative territory of Latvia. In cases regarding competition matters, however, the Regional Administrative Court is the court of first instance.

This court has exclusive jurisdiction over the public-law control of NCA decisions. Four of the 21 judges in this court are specialised in competition law. Appeals of NCA decisions are heard by a panel of three – an extended panel of seven may be used but judges have commented that this has never been necessary as competition cases have been reasonably straightforward.

Final Instance: Supreme Court (Administrative Department)

Augstākā tiesa Number of judges: 9
Brivibas Boulevard 36, LV-1511 Riga
Tel: +371 7020350
E-mail: at@at.gov.lv

Rulings of the Regional Administrative Court regarding the public-law control of national competition authority decisions can be appealed on a point of law only to the Supreme Court's Administrative Department (*Administratīvo lietu departaments*). The Supreme Court may only review the Regional Administrative Court's decision for breach of substantive or procedural law, and its judgment is final. Of the nine judges in the Administrative Department, three are specialised in competition law. The cases are always heard in a panel of three judges where the referee judge is specialised in competition law, or an extended panel where necessary.

16.2. Competent courts for private enforcement

First Instance: District Courts

Rajonu vai pilsētu tiesas Number of judges: 360
c/o Latvian Court Administration
Tel: +371 67063800
E-mail: kanceleja@ta.gov.lv

According to section 20 of the Latvian Competition Law (*Konkurences Likums*), any court in Latvia can apply competition law in the course of civil actions brought before them. The civil courts in Latvia form a three-tier system: the district (city) courts of first instance, the regional courts of second instance and the Supreme Court's Civil Division as court of third instance. The court with relevant jurisdiction is determined by the address of the claimant, therefore any court in Latvia could be confronted with a private-law action regarding competition law.

There are 34 district (city) courts (*rajonu vai pilsētu tiesas*) of general jurisdiction in Latvia; cases are heard by a single judge. Neither the district nor regional courts have experience of dealing with competition law, however, nor is there evidence of cases regarding competition law ever having been handled in the civil courts system.

Second Instance: Regional Courts

Apgabaltiesas Number of judges: 118
c/o Latvian Court Administration

There are five regional courts of appeal and cases are heard on facts and law by a panel of three judges.

Final Instance: Supreme Court (Civil Department)

Augstākā tiesa Number of judges: 17
Brivibas Boulevard 36, LV-1511 Riga
Tel: +371 7020350
E-mail: at@at.gov.lv

Private-law appeals from the Regional Courts regarding competition law may be heard on a point of law in the Supreme Court's Civil Cases Department, which deals with all private-law actions. Appeals are heard in a panel of three judges or an extended panel of seven where necessary. No private-law cases regarding competition law have ever been brought before the Civil Department of the Supreme Court.

16.3. Competent courts for State aid-related cases

First Instance: District Courts or District Administrative Court

Rajonu vai pilsētu tiesas Number of judges: 360

Administratīvā rajona tiesa Number of judges: 44

The attribution of State aid is regulated in Latvia by the Law on Control of Aid for Commercial Activity 2014 (Komercdarbības atbalsta kontroles likums).

If the State aid is received according to a civil agreement, an action for its prevention, repayment or recovery should be brought before the civil court, starting at first instance with the district courts. If the aid is granted by an administrative act, the action should be brought before the District Administrative Court, which has jurisdiction for the entire national territory.

Second Instance: Regional Courts or **Regional Administrative Court**

Apgabaltiesas	Number of judges: 118
Administratīvā apgabaltiesa	Number of judges: 21

Following the same principle as at first instance, appeals regarding aid granted on the basis of a civil agreement may be heard before the Regional Courts and those concerning administrative acts before the Regional Administrative Court. Six judges in the Regional Administrative Court are specialised in State aid.

Final instance: Supreme Court (Administrative or Civil Departments)

Augstākā tiesa	Number of judges (administrative): 9
	Number of judges (civil): 17

16.4. Judicial training

Continuous judicial training in Latvia is not obligatory, however Section 89 Part 5 of the Law on Judicial Power provides that "a judge has the duty to continuously enhance his or her knowledge throughout his or her career as a judge". The Latvian Judicial Training Centre is the body responsible for legal training in Latvia.

Latvian Judicial Training Centre (LJTC)

Latvijas Tiesnešu Mācĭbu Centrs
Mrs Solvita Kalnina-Caune
Mãrstalu iela 19, Riga
Tel: (371) 6789 5878
E-mail: solvita@ltmc.lv

The Latvian Judicial Training Centre (LJTC) is a Foundation that provides continuous and initial training primarily for judges and court staff, working under a long-term cooperation agreement with the Court Administration.

The LJTC training for judges and court staff is partly state-funded; the proportion of state funding in the Foundation's total budget varied from 64% in 2012 to 40% in 2014. The rest of the budget comes from other external grants (like projects co-funded by the EC) and contracts. LJTC also cooperates with the Prosecutor General's office and the Council of Sworn Advocates that offer specific training programmes for these legal professions and is financed from their annual budgets.

Apart from a 'Seminar on State Aid Topicalities' organised with the Riga Graduate School of Law in 2012-13, the LJTC has organised no training activities regarding competition law since 2010: the Foundation deems the number of judges specialised in this area of law too small to organise annual training activities on this subject. The training in 2010 was funded by the European Commission's "Training for Judges" Programme: 'Training in Competition Law for Judges in the Baltic states. Commonalities and Differences in the Jurisprudence.' This seminar was open not only to Latvian judges, but also to Estonian and Lithuanian judges.

Other providers of training to judges on EU competition law

The LJTC is the main provider, but other organisations (such as **ERA** and the **Hungarian Competition Authority** (GVH)) have provided training events on the subject of competition law for judges of various EU Member States, in which some of the twelve Latvian judges specialised in competition or State aid law have participated. These include: 'Advanced Training in EU Antitrust Law', London, 2014 (ERA); 'Competition Law Cases Through the Intellectual Property and High Tech Lens', Budapest, 2012 (GVH); 'Competition-related issues concerning the pharmaceuticals sector', Trier, 2011 (ERA); 'Competition Law Update - Recent Developments in European Case Law', Budapest, 2011 (GVH).

16.5. Networking

All of the activities above organised by LJTC or other organisations such as ERA were also attended by judges from Member States other than Latvia. Latvian judges therefore have the opportunity through this form of training to network with foreign judges. LJTC is also represented in the EJTN and is actively involved in the 'Programmes' working group.

Often training courses organised by the LJTC are aimed at and open to a variety of legal professions and therefore are attended by prosecutors, court staff, lawyers and judges together. However, the Foundation has not yet organised any training on EU competition law which has included the other legal professions in this way.

17. Lithuania

17.1. Competent courts for public enforcement

First Instance: Vilnius Regional Administrative Court

Vilniaus apygardos administracinis teismas Number of judges: 24
Žygimantų St. 2, LT-01102 Vilnius
Tel: (+370) 5 264 8722
E-mail: vilniaus.administracinis@teismas.lt

The Vilnius Regional Administrative Court is responsible for reviewing decisions of the Competition Council of the Republic of Lithuania (*Lietuvos Respublikos Konkurencijos taryba*). There are five regional administrative courts but according to Article 33 of the 1999 Lithuanian Law of Competition (new edition of the Law of 22 March 2012), only this regional administrative court has jurisdiction to deal with public-law competition cases.

Final Instance: Supreme Administrative Court

Lietuvos vyriausiasis administracinis teismas Number of judges: 18
Žygimantų g. 2, LT-01102 Vilnius
Tel: (8 5) 279 1005
E-mail: info@lvat.lt

Rulings of the Vilnius Regional Administrative Court may be appealed to the Supreme Administrative Court on the grounds of the facts or law. This is the court of final instance for the public-law review of decisions of the national competition authority. Cases in this court are heard by a panel of three judges, although this may be extended to five in cases of particular complexity in terms of interpretation or application of the law. In the most recent case of judicial review of the Competition Council's decisions (June 2015, regarding infringements within the municipal waste sector of the Klaipėda and Šiauliai districts, Case No A-1581-502-2015) the Supreme Administrative Court sat in its extended panel. Of the 18 judges on the Supreme Administrative Court, six list competition as one of their specialised areas.

17.2. Competent courts for private enforcement

First Instance: Vilnius Regional Court (Civil Division)

Vilniaus apygardos teismas Number of judges: 31
Gedimino pr. 40/1, LT-01501 Vilnius
Tel: (8 5) 268 8037
E-mail: vilniaus.apygardos@teismas.lt

There are five regional courts of general jurisdiction in Lithuania but according to Article 47 of the 1999 Lithuanian Law of Competition (new edition of the Law of 22 March 2012), Vilnius Regional Court has exclusive jurisdiction to hear private antitrust cases concerning the breach of national competition rules or of Articles 101 or 102 TFEU. A natural or legal person may submit a private-law claim for the infringement of domestic or EU competition rules according to the general rules of the Code of Civil Procedure of the Republic of Lithuania. There are no specialised competition law courts in Lithuania; competition cases are heard in the civil law division of this regional court of general jurisdiction.

Second Instance: Court of Appeal of Lithuania (Civil Division)

Lietuvos apeliacnis teismas Number of judges: 16
Gedimino pr. 40/1, LT-01503 Vilnius
Tel: (8 70) 663 685
E-mail: apeliacinis@apeliacinis.lt

There is only one Court of Appeal in Lithuania, thus rulings of the Regional Court of Vilnius in competition matters may be appealed on the grounds of the facts or law to this court, which deals with all matters of civil and criminal law and is a court of general jurisdiction. There is no specialised competition law section or division.

Final Instance: Supreme Court of Lithuania (Civil Division)

Lietuvos Aukščiausiasis Teismas Number of judges: 21
Gynėjų str. 6, 01109 Vilnius, Lithuania
Tel: (+370) 5 2616 466
Email: lat@lat.lt

The judgments of the Court of Appeal on private-law competition cases may be appealed to the Supreme Court of Lithuania upon a point of law only. This court is not specialised; cases regarding competition are heard in the civil law division. Civil law cases are heard by a panel of three judges, though this may be extended to seven in cases of particular complexity of interpretation or of application. This is the court of final instance for private-law cases. Private enforcement of competition law cases remain very rare in Lithuania, the most recent judgment of the Supreme Court dating from 11 December 2013 (*Urbico v Nordea*).

17.3. Competent courts for State aid-related cases

First Instance: Regional Administrative Courts

Apygardos administracinis teismas Number of judges: 48
Vilnius, Kaunas, Siauliai, Panevezys, Klaipeda

There is no general practice of litigation regarding State aid yet in Lithuania. Theoretically, all cases related to State aid awarded by decisions of State or municipal institutions, as well as to damages caused by such an award, may be challenged before one of the five regional administrative courts (Art.15 of Law on Administrative Proceedings). It should be noted, however, that the Lithuanian Competition Law has a special provision (Art. 4) addressed to State/municipal institutions, according to which cases related to the validity of decisions of the Competition Council may be brought before Vilnius Regional Administrative Court.

Final Instance: Supreme Administrative Court

Lietuvos vyriausiasis administracinis teismas Number of judges: 18
Žygimantų g. 2, LT-01102 Vilnius
Tel: (8 5) 279 1005
E-mail: info@lvat.lt

Rulings of the Regional Administrative Courts may be appealed to the Supreme Administrative Court.

17.4. Judicial training

The judicial training system in Lithuania encompasses both basic training, which is compulsory for judges appointed to a District Court for the first time, and continuing training, which is not. Continuing training is organised both centrally, in accordance with the Annual Plan of Judicial Training and Qualification Development, the Schedule of Judicial Training and Qualification Development and Programmes of Judicial Qualification Development, which are approved each year depending on the judicial training needs' assessment, as well as at the initiative of judges themselves.

National Courts Administration of Lithuania (Training and International Cooperation Division, Training Centre of the National Courts Administration)

Mokymų ir tarptautinio bendradarbiavimo skyrius
Nacionalinė Teismų administracija
L. Sapiegos g. 15, 10312, Vilnius
Tel: (8 5) 268 5186
E-mail: mokymai@teismai.lt

According to the Law on Courts, Article 93, part 2, "Training of judges shall be organised by the National Courts Administration". Judicial trainings most often take place in the training base – the Training Centre of the National Courts Administration of Lithuania.

in 2014 and 2015, the National Courts Administration of Lithuania has organised and funded the following training events in the area of competition law: "Contemporary issues of Competition law", "Recent practice of the Court of Justice of the European Union on cartel agreements", "Recent practice of the Court of Justice of the European Union on undue monopoly", "Pricing, function of a price and price regulation", "Economics of competition and monopoly".

Other providers of training to judges on EU competition law

The National Courts Administration cooperates closely with the **Academy of European Law (ERA)**. The official agreement on the accession of Lithuania to the ERA foundation was signed on 30 November 2012. Even before the official agreement, ERA organised seminars for the Lithuanian judiciary on EU competition law (e.g. in 2005 and 2006 two seminars were organised,). Lithuanian judges are constantly provided with the possibility to participate in ERA training tackling topics of competition law (e.g. in 2015 judges participated in the ERA Summer Courses on European Competition Law).

The **Lithuanian Association of Judges** (Lietuvos Respublikos teisėjų asociacija. Gedimino pr.1, 01103 Vilnius) organises seminars and workshops within Lithuania, and coordinates and organises projects with other Member States with the aim of enabling judges to develop and improve the law. The Association received a grant from the "Training for Judges" programme in 2010 for "The project for the national judges in Lithuania including academic seminars and international conferences in the field of EU competition law."

In addition, in 2008 the **Public Institution College of Social Sciences** received a grant for the seminar "EC competition law and its enforcement in the national jurisdictions: policy issues, case law and compliance".

The Lithuanian judges also participate regularly in international training programmes such as the OECD/GVH Regional Centre for Competition in Budapest and the EUI ENTRANCE programme in Florence.

17.5. Networking

The National Courts Administration of Lithuania cooperates with the European Judicial Training Network (EJTN). The NCA became a member of the EJTN in 2012 providing Lithuanian judges with the possibility to participate in various international training events, including in the area of competition law (e.g. in 2015 judges took part in the seminar "Competition Law").

The Ministry of Justice actively participates in the EJTN's judicial exchange programme. Lithuanian courts thus host judges of other Member States and Lithuanian judges have the opportunity to experience the courts of other Member States. Recent exchanges have taken place with Germany, Romania and Spain.

Judges from both the Supreme Administrative Court and the Supreme Court of Lithuania participate in the activities of the Association of European Competition Law Judges (AECLJ), including its annual conferences.

18. Luxembourg

18.1. Competent courts for public enforcement

First Instance: Administrative Tribunal

Tribunal Administratif Number of judges: 13
Nouvel Hémicycle
1, rue du Fort Thüngen,
1499 Luxembourg
Tel: +352 42105-1

No specialised court exists in Luxembourg to which the judicial review of decisions of the national competition authority is assigned: decisions of the national competition authority (*Conseil de la Concurrence*) may be challenged before the Administrative Tribunal in Luxembourg. The tribunal may uphold or revoke the decision but may also replace it by a new decision that it deems more appropriate as well as add to or alter the fines imposed by the NCA depending on the request presented to it.

The tribunal is composed of three chambers that hear cases in panels of three.

Final Instance: Administrative Court

Cour Administrative Number of judges: 5
Nouvel Hémicycle
1, rue du Fort Thüngen,
1499 Luxembourg
Tel: +352 42105-1

There are five judges in this higher administrative court and cases are heard by panels of three. This appeal court, which is also the supreme administrative court, has the same powers as the court of first instance. Like the administrative court of first instance, this court is not specialised in competition or State aid law.

18.2. Competent courts for private enforcement

First Instance: **Tribunals of the Peace** or **District Courts** (Commercial Chambers)

Tribunaux de Justices de paix Number of judges: 33
in Diekirch, Esch/Alzette and Luxembourg
Bâtiment JP, Cité Judiciaire,
2080 Luxembourg
Tel: +352 475981-1

Tribunaux d'arrondissement Number of judges: 12
in Diekirch and Luxembourg
Bâtiment JP, Cité Judiciaire,
2080 Luxembourg
Tel: +352 475981-1

The Tribunals of the Peace and the District Courts make up the courts of first instance for civil and commercial cases, including competition law. Tribunals of the Peace hear cases up to a value of €10,000, cases in excess going to the District Courts.

The District Courts are divided into chambers, each comprising three judges. The Luxembourg District Court has three chambers dedicated to commercial matters (2nd, 6th and 15th) and the Diekirch District Court has one.

In civil and commercial cases, first-instance decisions cannot be appealed where the value of the claim is less than €2,000. The courts may only award compensation to claimants.

Second Instance: Court of Appeal

Cour d'Appel Number of judges: 35
Cité judiciaire, Bâtiment CR
2080 Luxembourg
Tel: +352 475981-369

Decisions of the *Justice de Paix* and the District Courts may be appealed to the Court of Appeal, which rules on matters of fact and law. Damages can be granted to the claimant.

Final Instance: Court of Cassation

Cour de Cassation Number of judges: 5
Cité judiciaire, Bâtiment CR
2080 Luxembourg
Tel: +352 475981-369

The Court of Cassation may hear appeals on points of law only and is the court of final instance for private actions. There is no specialised section and cases are heard by panels of five requiring an absolute majority.

18.3. Competent courts for State aid-related cases

(a) Administrative jurisdiction

First Instance: Administrative Tribunal

Tribunal Administratif Number of judges: 13

Luxembourg administrative courts are only competent to verify the legality and, in some specific areas of law, the opportunity of administrative decisions.

Final Instance: Administrative Court

Cour Administrative Number of judges: 5

(b) Ordinary jurisdiction

First Instance: Tribunals of the Peace or **District Courts** (Commercial Chambers)

Justices de paix Number of judges: 33

Tribunaux d'arrondissement Number of judges: 12

In State aid cases, which in principle belong to the competence of the administrative courts, the civil courts are competent for actions for damages, as the administrative courts have no jurisdiction to award damages. Thus, the victim of an illegal administrative decision or regulation to grant State aid has to sue the public authority in tort before the civil courts to obtain compensation for damages.

Second Instance: Court of Appeal

Cour d'Appel Number of judges: 35

Final Instance: Court of Cassation

Cour de Cassation Number of judges: 5

18.4. Judicial training

Continuous judicial training is not obligatory in Luxembourg and there is no specific framework for such training. The Ministry of Justice is responsible, together with the Office of the Prosecutor General, for judicial training in Luxembourg.

Ministry of Justice

Ministère de la Justice
13, rue Erasme, Centre administratif Pierre Werner
2934 Luxembourg
Tel: 00352 247-84537
Email: info@mj.public.lu

As Luxembourg does not have a specific institution or school for the training of its judges and prosecutors, the Ministry of Justice has an agreement with the French *Ecole nationale de la Magistrature* in Bordeaux and the German Judicial Academy (DRA). No EU competition law training is provided nationally.

18.5. Networking

As Luxembourg does not have a specific institution responsible for the further training of its judges, all activities, e.g. participation in training on an international level, are organised in cooperation with foreign institutions or training bodies such as ERA and the French National School of the Magistracy.

19. Malta

19.1. Competent courts for public enforcement

First Instance: Competition and Consumer Appeal Tribunal

Tribunal għal Talbiet tal-Konsumaturi
MCCA, Mizzi House, National Road, Blata
I-Bajda, HMR 9010, Valletta
Tel: +356 23952000
E-mail: info@mccaa.org.mt

Number of judges: 3

This tribunal has exclusive jurisdiction to hear and determine appeals at first instance from decisions, orders or measures of the Director-General of Competition. The tribunal may confirm or quash decisions, orders or penalties issued by the Director-General; decisions are final as regards the facts of the case, but can be appealed only upon a point of law to the Court of Appeal. The tribunal is partly specialised in competition law, but also deals with more general consumer matters. Cases are heard by one judge and two panel members.

Final Instance: Court of Appeal (Civil Jurisdiction)

Qorti Ta' l-Appell
Courts of Justice, Republic Street,
Valletta CMR 02
Tel: +356 25902582
Email: albert.portelli@gov.mt

Number of judges: 5

This Court hears appeals upon a point of law from the Competition and Consumer Affairs Tribunal regarding public-law review of decisions of the Director-General of Competition. Its rulings cannot be appealed.

19.2. Competent courts for private enforcement

First Instance: Civil Court (First Hall)

Prim' Awla tal-Qorti Čivili
Malta Law Courts, Republic Street,
Valletta CMR 02
Tel: +356 25902582
E-mail: albert.portelli@gov.mt

Number of judges: 7

The First Hall of the Civil Court is the court of first instance for all cases regarding civil and commercial matters. Seven judges are assigned to sit in this court but only one judge hears each case. Article 11 of the Code of Organisation and Civil Procedure

(Chapter 12 of the Laws of Malta) was recently amended to confer powers upon the Chief Justice to allow him to assign each case to a specific judge, allowing for more specialisation. Although the court is not specialised in competition law, one of its seven judges is also the judge of the Competition and Consumers Appeal Tribunal; the new system of assigning cases will enable private-law competition actions to be heard by a more specialised judge.

Final Instance: Court of Appeal (Civil Jurisdiction)

Qorti Ta' l-Appell Number of judges: 5
Courts of Justice, Republic Street,
Valletta CMR 02
Tel: +356 25902582
Email: albert.portelli@gov.mt

The Court of Appeal is the court of final instance for all civil (private-law) matters in Malta. Two chambers with identical jurisdictions and two judges per chamber are presided by the Chief Justice; appeals are heard by a panel of three judges including the Chief Justice.

This Court hears appeals of private-law competition cases upon a point of law from the First Hall of the Civil Court.

19.3. Competent courts for State aid-related cases

There are no specific structures or laws regarding State aid cases in Malta, so the ordinary civil courts would deal with these cases. However, to date, no such cases have arisen.

First Instance: Civil Court (First Hall)

Prim' Awla tal-Qorti Čivili Number of judges: 7

Final Instance: Court of Appeal (Civil Jurisdiction)

Qorti Ta' l-Appell Number of judges: 5

19.4. Judicial training

There is no compulsory continuous judicial training in Malta. The body responsible for the ongoing training of members of the Maltese judiciary is the Judicial Studies Committee.

Judicial Studies Committee

Courts of Justice
Republic Street
Valletta CMR 02
Tel: +356 21224147

The Judicial Studies Committee (JSC) is funded by the Ministry of Justice and Home Affairs and provides training for members of the judiciary, i.e. judges and magistrates. Occasionally, judicial assistants are invited to attend. Lawyers in private practice can may not participate in JSC training but may participate in activities organised for them by the Malta Chamber of Advocates. The Committee (composed of four members, two appointed by the Chief Justice and two by the Minister of Justice) frequently organises seminars and lectures on the topic of substantive EU law and its application and often works together with the EJTN and ERA. The Committee is a member of the Criminal and Civil Sub-Working Group of the EJTN.

The training activities organised by the JSC often include speakers from other jurisdictions such as members of the Judicial College of England and Wales. The Committee is also responsible for sending Maltese judges and magistrates to participate in seminars abroad. These events are mainly organised by EJTN and ERA and at times by European national training institutions that open their training events to foreign members of the judiciary. The Committee organises some five training events each year for all members of the Maltese judiciary. To date the JSC has hosted a number of training events specifically on the topic of EU competition law, including the following:

- In partnership with the **Nadur Local Council** (beneficiary of the Training for Judges Programme in 2006) 'Seminars in EC competition law for Maltese judges'., A series of seminars on Competition Law were delivered by mostly Italian Speakers in 2006.
- With the support of the **European Commission Representation in Malta**: seminar on European Competition Law held in March 2007.
- In partnership with the **Malta Europe Steering & Action Committee**, 'Training of Judges in EC Competition Law: the Application of EC Law in Malta', held in 2009
- In partnership with the **Malta Competition and Consumer Affairs Authority**, 'Seminar for the Maltese judiciary on EU competition law', held in 2012

The above seminars were mostly covered with funding provided by the EU Commission.

19.5. Networking

Many networking opportunities are available for the Maltese and Italian judiciaries. For example Italian judges may be guest speakers at training events for Maltese judges. From 2007-13, the Judicial Studies Committee took part in a project co-funded by the University of Rome III and the EU Commission, named 'Training of National Judges: Network Building in Competition Law.' This programme consisted of a series of seminars on competition law, open to Maltese, Italian and Macedonian judges and prosecutors.

20. Netherlands

20.1. Competent courts for public enforcement

First Instance: District Court of Rotterdam (Administrative Team)

Rechtbank Rotterdam
Wilhelminaplein 100-125
3072 AK Rotterdam

Number of judges: 7

The Administrative Team of the District Court of Rotterdam has exclusive competence to hear cases at first instance following a decision of the Dutch national competition authority (*Autoriteit Consument en Markt*), where appropriate after having gone through an internal administrative review procedure. The administrative team is specialised in the administrative enforcement of competition rules. Within this team there is a special subsection consisting of seven judges and four legal clerks who deal with public-law competition cases.

Final Instance: Trade and Industry Appeals Tribunal

College van Beroep voor het bedrijfsleven
Prins Clauslaan 60, 2585 AJ Den Haag
Tel: (070) 381 39 10
Email: cbb@rechtspraak.nl

Number of judges: 10

Decisions of the Administrative Team of the District Court of Rotterdam may be appealed to the Trade and Industry Appeals Tribunal. The court may decide on facts and law and cases are heard by a chamber of three judges. Within this court, ten justices deal with competition law cases, assisted by six senior legal clerks.

20.2. Competent courts for private enforcement

First Instance: District Courts (Civil Teams)

Rechtbanken
for Amsterdam, Den Haag, Gelderland, Limburg, Midden-Nederland, Noord-Holland, Noord-Nederland, Oost-Brabant, Overijssel, Rotterdam and Zeeland-West-Brabant

Number of judges: c. 44

There are eleven district courts in the Netherlands. These are non-specialised courts that deal with all private-law matters. Each court has up to five teams; competition law cases are heard by the civil team. If a private competition claim is worth less than €25,000 it is heard by the sub-district team (*kantonrechter*). Cases in the district

courts are usually heard by a single judge. Taking the Rotterdam District Court as an example, where approximately four judges and two legal clerks deal with private actions concerning competition law, it can be assumed that no more than 44 judges across the Netherlands deal with competition cases at district court level.

Second Instance: Courts of Appeal

Gerechtshoven Number of judges: c. 32
in Amsterdam, Arnhem-Leeuwarden, Den Haag and 's-Hertogenbosch

There are four courts of appeal in the Netherlands; each court of appeal hears private enforcement competition cases at second instance from its relevant district (or sub-district for cases worth less than €25,000). The courts may decide on facts and law. Taking as an example the Court of Appeal of the Hague, where eight judges deal with competition cases, it can be assumed that no more than 32 judges deal with such cases at the level of Court of Appeal.

Final Instance: Supreme Court (First Chamber)

Hoge Raad der Nederlanden Number of judges: 10
Kazernestraat 52, 2514 CV Den Haag
Tel: 070 361 1311
Email: info@hogeraad.nl

The First – or Civil – Chamber of the Supreme Court may hear appeals from the four courts of appeal in private-law competition cases at final instance. The court may decide on points of law only.

20.3. Competent courts for State aid-related cases

Issues related to the enforcement of the EU rules on State aid may arise in different types of cases (e.g. public subsidies, tax rulings) and as a result in different courts in the Netherlands depending on different criteria at different stages in the proceedings. For example, tax cases will be dealt with by the administrative sections of the district courts and may be appealed to the courts of appeal and Supreme Court, whereas cases involving other socioeconomic administrative law issues may be appealed to the Trade and Industry Appeals Tribunal. A reform of the administrative justice system is currently under discussion in the Netherlands.

First Instance: District Courts (Administrative or Civil Sectors)

Rechtbanken Number of judges: 11
for Amsterdam, Den Haag, Gelderland, Limburg, Midden-Nederland, Noord-Holland, Noord-Nederland, Oost-Brabant, Overijssel, Rotterdam and Zeeland-West-Brabant

There are eleven district courts in the Netherlands. Each court has up to five sectors and cases involving State aid may be heard before the administrative or civil sectors depending on the subject matter. In the Rotterdam District Court, for example, just one specialised judge deals specifically with State aid cases, but given that State aid

may arise in cases not clearly labelled as such, all judges sitting in the administrative and teams of the District Courts may be faced with such issues.

Second Instance (civil and tax cases)**: Courts of Appeal**

Gerechtshoven Number of judges: 32
in Amsterdam, Arnhem-Leeuwarden, Den Haag and 's-Hertogenbosch

Rulings of the district courts in civil and tax law cases may be appealed on facts and law to the Courts of Appeal. The same judges dealing with competition cases at this level also deal with State aid. Taking as an example the Court of Appeal of the Hague, in which eight judges deal with State aid cases, it can be assumed that no more than 32 judges deal with such cases in the Courts of Appeal.

Final Instance (civil and tax cases)**: Supreme Court** (First or Third Chambers)

Hoge Raad der Nederlanden Number of judges: 23

Rulings of the Courts of Appeal in civil and tax law cases may be appealed on points of law to the Supreme Court.

Final Instance (administrative cases)**: Trade and Industry Appeals Tribunal**

College van Beroep voor het bedrijfsleven Number of judges: 19

Rulings of the district courts in other socioeconomic administrative law cases may be appealed on facts and law to the Trade and Industry Appeals Tribunal. State aid cases may be handled by any of the Tribunal's 19 justices.

20.4. Judicial training

Continuous judicial training is not compulsory in the Netherlands. However, the Council for the Judiciary has recommended that members of the judiciary should participate in at least thirty hours per year of judicial training.

Judicial Studies Centre (SSR)

Studiecentrum Rechtspleging
Uniceflaan 1, 3527 WX Utrecht
Tel: +31 883613212
Email: ssr.international@ssr.nl

Approximately 2,500 legal professionals take part in training provided by the SSR every year. It is funded 35% by registration fees, 3% by contracts and 62% by a State grant.

SSR does not provide specific training on competition law. However, training has been provided in this field by other Dutch institutions, in particular by universities.

Other providers of training to judges on EU competition law

The following institutions received grants from the "Training for Judges" programme to provide training to Dutch judges in EU competition law:

- **University of Leiden:** 'LEGSA: Application of State aid Law in National Courts', 2011-13.
- **Universiteit Utrecht** (Faculteit Recht, Economie, Bestuur en Organisatie Department Rechtsgeleerdheid Europa Instituut): 'Removing Obstacles: a Mutual Learning Experience Towards Good Practices in Competition Law Enforcement in 2010-12.

20.5. Networking

The above training activities were provided for Dutch judges only. Judges have the possibility of participating in seminars with judges from other Member States as the SSR is represented in the EJTN. However, few opportunities have arisen within the field of EU competition law.

21. Poland

21.1. Competent courts for public enforcement

First Instance: Court of Competition and Consumer Protection

Sąd Ochrony Konkurencji i Konsumentów (SOKiK)
ul. Czerniakowska 100, 00-454
Warszawa

Number of judges: 12

The specialised Court of Competition and Consumer Protection is the XVII Division of the Regional Court of Warsaw. It has exclusive competence to review the decisions of the Polish national competition authority (Office of Competition and Consumer Protection, *Urząd Ochrony Konkurencji i Konsumentów*) and is specialised in national and EU competition law.

Second Instance: Court of Appeal of Warsaw (Civil Division)

Sąd Apelacyjny w Warszawie
Plac Krasińskich 2/4/6, 00951 Warsaw
Tel: +48 22 530 80 00
www.waw.sa.gov.pl/

Number of judges: 21

The Civil Division (Division VI) of the Court of Appeal of Warsaw has exclusive jurisdiction to hear appeals on facts and law from the Court of Competition and Consumer Protection regarding the public-law review of competition authority decisions. The division also hears other commercial appeal cases.

Final Instance: Supreme Court (Chamber for Labour Law, Social Security and Public Affairs – 3rd Division)

Sąd Najwyższy
Plac Krasińskich 2/4/6, 00951 Warsaw
Tel: +48 22 530 8270
E-mail: sn@sn.pl

Number of judges: 18

The Supreme Court hears appeals on points of law from the Court of Appeal of Warsaw. The 3rd Division of the Supreme Court's Chamber for Labour Law, Social Security and Public Affairs has exclusive jurisdiction for cases concerning the review of national competition authority decisions.

21.2. Competent courts for private enforcement

First Instance: District Courts (Commercial Divisions)

Sąd rejonowy Number of judges: 501
c/o Ministry of Justice
Al. Ujazdowskie 11
00-950 Warsaw
Tel. +48 22 52 12 888

The common civil courts are competent for private enforcement cases concerning EU competition law. The non-specialised District Courts of common jurisdiction are the courts of first instance for private-law actions where the claim has a value of less than PLN 75,000 (€18,000). There are 321 District Courts in Poland.

First or Second Instance: Regional Courts (Commercial Divisions)

Sąd Okręgowy Number of judges: 237
c/o Ministry of Justice

The non-specialised Regional Courts are the courts of second instance for private-law actions regarding competition law decided by a District Court. The Regional Courts are, however, courts of first instance for private-law actions with a value greater than PLN 75,000 (€18,000). Collective actions, regardless of their value, are also heard by the Regional Courts at first instance. There are 45 regional courts in Poland.

Second Instance: Courts of Appeal (Civil Divisions)

Sąd Apelacyjny Number of judges: 231
c/o Ministry of Justice

There are 11 Appeal Courts in Poland. All have competence to hear appeals on facts and law from the District and Regional Courts regarding private actions in competition law.

Final Instance: Supreme Court (Civil Chamber)

Sąd Najwyższy Number of judges: 28

The Supreme Court is the final instance for private actions, and may decide on points of law only. An appeal in cassation may only be submitted to the Supreme Court if the value of the claim is at least PLN 50,000 (approx. €12,000).

21.3. Competent courts for State aid-related cases

There are no special provisions for the handling of cases related to State aid in Poland. Actions to enforce the standstill obligation or to recover illegally attributed State aid may be brought before the administrative courts, whereas private actions may be brought in the common civil courts.

(a) Administrative courts

First Instance: Regional Administrative Courts

Wojewódzkie Sądy Administracyjne Number of judges: c. 190

There are 16 Regional Administrative Courts in Poland. In the Warsaw Regional Administrative Court, State aid cases are handled by Division 5 composed of 17 judges. In the other Regional Administrative Courts, such cases are handled by a chamber composed of 10-13 judges.

Final Instance: Supreme Administrative Court (Commercial Chamber)

Naczelny Sąd Administracyjne Number of judges: 25
Peter Gabriel Boduen 3/5
00-011 Warsaw
E-mail: informacje@nsa.gov.pl

Appeals from the regional administrative courts in State aid cases on points of law only are heard by the Commercial Chamber of the Supreme Administrative Court.

(b) Ordinary courts

First Instance: District Courts (Commercial Divisions)

Sąd rejonowy Number of judges: 501

First or Second Instance: Regional Courts (Commercial Divisions)

Sąd Okręgowy Number of judges: 237

Second Instance: Courts of Appeal (Civil Divisions)

Sąd Apelacyjny Number of judges: 231

Final Instance: Supreme Court (Civil Chamber)

Sąd Najwyższy Number of judges: 28

21.4. Judicial training

Further training is not obligatory in Poland; EU law seminars and conferences are made available for Polish judges but are not obligatory. The main judicial training provider is the NSJPP and the main EU competition law provider has been ERA, often in partnership with Polish organisations. Neither the judges of the Court of Competition and Consumer Protection nor judges from the commercial division of the Court of Appeal of Warsaw (judges with exclusive competence to hear public-law competition cases) receive specific or regular training; the last training organised for specialised judges was in 2011.

National School of Judiciary and Public Prosecution (NSJPP)

Krajowa Szkoła Sądownictwa i Prokuratury
ul. Przy Rondzie 5
31-547 Kraków
and
ul. Krakowskie przedmiescie 62
20-076 Lublin, Poland
Tel: +48 81 440 87 15

The NSJPP covers the training of judges, prosecutors, trainees, clerks, civil servants, judges' and prosecutors' assistants and probation officers. Lawyers in private practice are not allowed to participate. It is mostly funded by the State (83%) with a further 17% of its budget from EU operational grants. It is the institution responsible for guaranteeing the participation of Polish judges in EU and international conferences.

- In 2014 the NSJPP received funding from the "Training for Judges" Programme and ran an e-learning project in EU Competition Law with a focus on English language skills in this field. This project is set to run until February 2017,
- In May 2011 the NSJPP organised a seminar on EU Competition Law for the judges of the Competition and Consumer Protection Court.

The School has also delivered a number of programmes in cooperation with **ERA** and co-funded by the "Training for Judges" programme:

- 'Training of the National Judiciary in EU Antitrust Law', 2014
- 'Training of the Polish Judiciary on the Enforcement of EC State aid rules', 2010
- 'Training of the Polish Judiciary in EC Competition Law', 2009

Other providers of training to judges on EU competition law

Fundacja Prawo Europejskie (European Law Foundation) ran a seminar for Polish judges in 2006 named 'Competition Law in the European Union – New Powers of Courts' with funding from the "Training for Judges" programme.

The Foundation Institute for European Projects ran a project in 2008 dealing with the promotion of streamlined and effective operation and exercise of the powers granted to national courts and authorities pursuant to regulation (EC) No 1/2003 in Bulgaria and Poland. The Institute ran the project again (Part II) in 2010-12.

21.5. Networking

Many of the EU competition law training provided to Polish judges has been open only to Polish judges. However, as seen above, there have been some opportunities for Polish judges to be trained in this area of law alongside judges from other Member States.

22. Portugal

22.1. Competent courts for public enforcement

First Instance: Competition, Regulation and Supervision Court

Tribunal da Concorrência, Regulação e Supervisão
Praça do Município
Ed. Ex-Escola Prática de Cavalaria
2005-345 Santarém
Tel: +351 243 090 300
E-mail: tribunal.c.supervisao@tribunais.org.pt

Number of judges: 3
Number of prosecutors: 3

This is a specialised court with exclusive jurisdiction at first instance for the review of decisions of the Portuguese Competition Authority (*Autoridade da Concorrência*, AdC), established in 2013 on the basis of Article 92(1) of the new Competition Act (Law 19/2012). It is one of only four first-instance courts in Portugal that has enlarged territorial competence for the entire country. Cases are heard by one of the three judges.

It should be noted that the Public Prosecution Service in Portugal (*Ministério Público*) has the exclusive competence to represent the State in court proceedings and therefore takes over cases involving competition law from the national competition authority when they go to court. Given that both judges and prosecutors share the status of magistrates and their training is organised by the same Centre for Judicial Studies (*Centro de Estudos Judiciários*), it is relevant to consider the training needs of both in the field of EU competition law.

Final Instance: Court of Appeal of Lisbon

Tribunal de Relação de Lisboa
Rua do Arsenal Letra G,
1100-038 Lisbon
Tel: +351 213222900
E-mail: lisboa.tr@tribunais.org.pt

Number of judges: c. 145

According to Article 89 of the new Competition Act (Law no 19/2012) the Court of Appeal of Lisbon has exclusive jurisdiction to hear appeals from the Court of Competition, Regulation and Supervision regarding public-law control of decision of the national competition authority. It may review both the facts and the law. This Court has exclusive and final jurisdiction: its decisions can only be appealed to the Supreme Court in extraordinary cases on the grounds of inconsistency between two of its previous judgments and only on the same point of law. The Court of Appeal of Lisbon does not have a specific competition law chamber.

22.2. Competent courts for private enforcement

First Instance: Courts of First Instance

Tribunais Judiciais de 1ª Instância Number of judges: c. 1200
c/o Directorate-General of Justice
Administration (DGAJ)
Av. D. João II, 1.08.01 D/E
1990-097 Lisboa
Tel: +351 217906200
E-mail: correio@dgaj.mj.pt

There are no specialised courts in Portugal for the private enforcement of competition law and therefore the local judicial courts are competent at first instance. There are also no specialised procedural rules for competition cases, thus the general rules of private law from the Civil Code and the Code of Civil Procedure apply (relating to rules of evidence and time limits). Since a reform in 2014, there are 23 judicial districts (*comarcas*) in Portugal, each of which has a general court of first instance divided into civil, commercial, criminal and other sections. In claims with a value inferior to €5,000, a ruling by a court of first instance may not be appealed.

Second Instance: Courts of Appeal

Tribunais de Relação Number of judges: c. 145
c/o Directorate-General of Justice
Administration

Appeals in private actions on the facts or law may be brought before one of the five Courts of Appeal in Lisbon, Porto, Coimbra, Évora and Guimarães. Rulings of the Courts of Appeal concerning claims worth €30,000 or less cannot usually be appealed to the Supreme Court.

Final Instance: Supreme Court of Justice

Supremo Tribunal de Justiça Number of judges: 34
Praça do Comércio
1149-012 Lisboa
Tel: +351 213 218 945/947/995
E-mail: gabinete.presidente@stj.pt

The Supreme Court of Justice may hear appeals in private actions from the Courts of Appeal on points of law only and if the value of the claim exceeds €30,000. In exceptional cases, and provided that these conditions are met, the Supreme Court may hear appeals directly ("*per saltum*") from the Courts of First Instance. Four sections of the Supreme Court of Justice deal with civil cases, with a total of 34 judges.

22.3. Competent courts for State aid-related cases

First Instance: Administrative and Tax Courts

Tribunais Administrativos e Fiscais Number of judges: 148
c/o Superior Council of the Administrative and Tax Courts
Rua de S.Pedro de Alcântara,
73-79 1269-137 Lisboa
Tel: +351 21 321 62 67
E-mail: correio@cstaf.pt

A wide range of actions and claims can be brought before the Portuguese administrative and tax courts: action for annulment; for failure to act; for compensation (non-contractual liability); for breach of administrative contract; injunctions; provisional measures. There are 17 first-instance courts, most of which have separate chambers for administrative and tax issues (there are separate administrative and tax courts only in Lisbon).

Second Instance: Central Administrative Courts

Tribunais Centrais Administrativos Number of judges: 36
c/o Superior Council of the Administrative and Tax Courts

Appeals from the first-instance administrative and tax courts are heard by one of two administrative appeal courts.

Final Instance: Supreme Administrative Court

Supremo Tribunal Administrativo Number of judges: 22
Rua de São Pedro de Alcântara, 75-79
1269-137 Lisboa
Telefone: +351 21 3216200
E-mail: correio@lisboa.sta.mj.pt

The Supreme Administrative Court of Justice hears appeals from the administrative appeal courts on points of law only.

22.4. Judicial training

Training on EU competition law in Portugal is organised by the Centre of Judicial Studies (CEJ), often in collaboration with other organisations such as Portugal's national competition authority. At the University of Lisbon, the European Institute as well as the Institute for Economic, Fiscal and Tax Law (IDEFF) also provide some training to judges on European Competition Law. Continuous judicial training is not compulsory in Portugal.

Centre of Judicial Studies (CEJ)

Centro de Estudos Judiciários
Largo do Limoeiro
1149-048 Lisboa
Tel: +351 21 884 56 00
Email: cej@mail.cej.mj.pt

The CEJ has frequently provided training to the Portuguese judiciary regarding EU competition law. The Centre operates under the responsibility of the Ministry of Justice but has legal personality and administrative autonomy; it is funded 98% by the State and 2% by registration fees. Training is open to judges, prosecutors and trainees and occasionally to lawyers of private practice for a symbolic fee. Portugal had 1,034 participants in the "Training for Judges Programme" from 2007-2013, thus much of the training provided to the Portuguese judiciary has been funded by the EU.

Training provided by the CEJ in collaboration with other organisations:

- In 2015 the CEJ worked in collaboration with the **EJTN** to organise a seminar on EU Competition Law
- 2010: training course on national and European competition law – open to judges and lawyers – in partnership with the ***Autoridade da Concorrência*** (AdC)
- In partnership with **ERA**: training for Portuguese judges on European Competition Law in 2006 and again in 2009
- 2007: seminar on competition law with successive weekly sessions, in partnership with the AdC
- 2006: two-day training course on national and European competition law, in partnership with the AdC

Other providers of training to judges on EU competition law

The **University of Lisbon** (European Institute and Institute for Economics, Fiscal and Tax Law) was a key beneficiary of the Training for Judges Programme, having received grants in 2013, 2012, 2010 and 2008 to organise seminars with the support of CEJ.

The **Portuguese Association for Consumer Protection** (DECO, *Associação Portuguesa para a Defesa do Consumador*) was another of the most frequent recipients of grants from the programme with a total of six training projects from 2002 to 2013.

Training courses for judges in competition law have been provided by the Faculty of Law of the **Portuguese Catholic University of Oporto** with funding from the Training for Judges Programme: 'Application of EU Competition Law by National Courts', in March 2014 and again in March 2015, and 'EU Competition Law and Enforcement by National Judges' in 2013.

The ***Círculo do Advogados Portugueses de Direito da Concorrência*** (Association of Portuguese Competition Lawyers) has run a regular conference entitled "Portuguese-Spanish Conference on Competition Law," in 2010, 2011, 2013 and 2014 the last of which focused on actions for damages in breach of competition rules. These conferences brought together experts from various practice sectors including competition lawyers, officials from the NCA, judges and economists.

22.5. Networking

The above-mentioned EU competition-law training activities were targeted at members of the judiciary of Portugal. However, the Catholic University of Oporto invited five Spanish judges to its competition law seminars to represent the whole of Spain.

Some training activities, such as the courses for judges in European competition law offered by the Institute for Economics, Fiscal and Tax Law of the University of Lisbon (co-funded by the European Commission and the CEJ, e.g. June 2015) feature speakers from the national competition authority, academics, lawyers and economists, as well as speakers and participants from Spain. The courses for judges in EU competition law offered by the Institute for Economics, Fiscal and Tax Law of the University of Lisbon feature speakers from the NCA, academics, lawyers and economists, as well as speakers and participants from Spain.

23. Romania

23.1. Competent courts for public enforcement

There are two strands to the public enforcement of competition law in Romania:

a) decisions by the Romanian Competition Authority, which can be submitted for judicial review to the Court of Appeal of Bucharest, and
b) criminal prosecution against the infringer.

(a) Judicial review

First Instance: Court of Appeal of Bucharest (Administrative Section)

Curtea de Apel București Number of judges: 40
Splaiul Independenței 5,
București 050081
Tel:+40 21 319 5180
Email: infocabuc@just.ro

There are 15 Courts of Appeal in Romania, however the Court of Appeal of Bucharest has exclusive jurisdiction in cases regarding competition law. The court has a specialised section for administrative and fiscal matters, which is competent to hear cases related to the judicial review of national competition authority decisions. The Bucharest Court of Appeal has upheld approximately 85% of NCA decisions.

Final Instance: High Court of Cassation and Justice (Administrative and Fiscal Section)

Inalta Curte de Casație și Justiție Number of judges: 24
Str. Batiştei, nr. 25, sector 2,
020934 Bucureşti
Tel: +40 21 310 3912
Email: relatii.publice@scj.ro

Under the new Civil Procedure Code of 2014, the High Court of Cassation and Justice can hear appeals from the Courts of Appeal relating only to points of law. This court has a special section for administrative and fiscal matters. In 2015, six appeals against competition authority decisions concerning cartels on the fuel market were pending at the High Court of Cassation and Justice.

(b) Criminal sanctions

First Instance: Courts of First Instance or **Tribunals**

Judecătorii (Courts of First Instance)	Number of judges: 494
Tribunale (Tribunals)	Number of judges: 215

According to the Law on Competition (21/1996), participating with fraudulent intent and in a decisive way in the conception, organisation or realisation of any of the practices prohibited under Art. 5(1) of the Law is a criminal offence. The criminal sections (where such exist) of the 177 courts of first instance are competent for applying criminal sanctions in antitrust cases, with the exception of cartels the members of which constitute an organised crime group, in which case the 41 tribunals are competent. Penalties include imprisonment from six months to three years and fines.

Final Instance: Courts of Appeal (Criminal Sections)

Curtea de Apel	Number of judges: 218

Appeals from the lowers courts may be brought before one of the 15 Courts of Appeal based on the facts or law, whose decision is final.

23.2. Competent courts for private enforcement

First Instance: Courts of First Instance or **Tribunals**

Judecătorii (Courts of First Instance)	Number of judges: 1905
Tribunale (Tribunals)	Number of judges: 1393

The Law on Competition provides private parties with full rights to litigate before the civil courts; the competence of courts to hear private actions is established by the general provisions of the Civil Procedure Code. There are 188 Courts of First Instance and 41 Tribunals in Romania. Where the damages claimed amount to more than Lei 200,000 (€45,159), the Tribunals have jurisdiction at first instance; claims of a lower value are heard by the Courts of First Instance. Collective actions may be submitted by consumer associations or associations of employers and the NCA may intervene in private-law competition cases to submit observations. National courts are obliged to report cases involving European competition law to the NCA but do not have an equivalent obligation for national competition law. To date, no private actions have been reported as having been heard in the ordinary courts.

Second or **Final Instance: Tribunals** or **Courts of Appeal**

Tribunale	Number of judges: 1393
Curtea de Apel	Number of judges: 748

As there are no special provisions in Romania regarding private antitrust actions, the general rules of the Civil Procedure Code apply. Appeals from the Courts of First Instance in cases worth less than Lei 200,000 may be brought on the grounds of facts or law before the Tribunals, whose decision is final. Appeals from the Tribunals in cases worth more than Lei 200,000 may be brought on the grounds of facts or law before one of the 15 Courts of Appeal in Romania. In cases worth less than Lei 500,000, the Court of Appeal's ruling is final.

Final Instance: High Court of Cassation and Justice (Civil Sections I and II)

Inalta Curte de Casație și Justiție Number of judges: 50

Only if the damages claimed amount to more than Lei 500,000 (€112,897) may the decision of the Court of Appeal be appealed on points of law to the High Court of Cassation and Justice. Such appeals are heard by one of the two Civil Sections of the High Court.

23.3. Competent courts for State aid-related cases

First Instance: Court of Appeal of Bucharest (Administrative Section)

Curtea de Apel București Number of judges: 40

The Court of Appeal of Bucharest (Administrative Section) has exclusive jurisdiction for appeals against Competition Council decisions in matters of *de minimis* aid, e.g. provisional measures, recovery of State aid (according to Emergency Ordinance no. 77/2014 on the national procedures of State aid and competition approved by Law 20/2015). Other tribunals and courts of appeal keep jurisdiction for applying the State aid rules in matters that fall in the scope of their jurisdiction, e.g. claims of creditors (cf. *Micula* case) or insolvency proceedings.

Final Instance: High Court of Cassation and Justice (Administrative and Fiscal Section)

Inalta Curte de Casație și Justiție Number of judges: 24

The High Court of Cassation and Justice can hear appeals on points of law.

23.4. Judicial training

Continuous judicial training is obligatory in Romania: judges and prosecutors are legally obliged to attend continuous professional training courses at least once every three years. Judges may in addition to this be obliged to undergo special training course in two instances: (a) a judge or prosecutor who receives the rating 'unsatisfactory' in an evaluation or 'satisfactory' in two consecutive evaluations must undergo three to six months of special training held at the National Institute of Magistracy (NIM); or (b) judges who work in specialised courts and prosecutors attached to those courts are obliged to undergo training courses at NIM.

National Institute of Magistracy (NIM)

Institut National Al Magistraturii
Bd. Regina Elisabeta nr. 53, Sector 5
050019 Bucharest
Tel: +40 021 310 21 10
Email: octavia.spineanu@inm-lex.ro

The National Institute of Magistracy is the body responsible for training judges, prosecutors and court staff: admission to NIM through an entrance exam is the main route for law graduates to enter the magistracy. NIM provides initial training as well as continuous training. 24 training hours corresponding to 20% of the initial training curriculum of the Romanian magistracy are dedicated to EU law.

NIM is a public institution with legal personality under the supervision of the Superior Council of the Magistracy. It is funded 45% from EU project grant(s), 3% from donations and 52% from the State. NIM has in the recent past provided one training activity regarding competition law for Romanian participants per year: a summer school ('Advanced Training Seminar on the Application of National Judges of European Competition Law Rules', in partnership with ERA) in 2014 which was attended by twelve Romanian judges and an international conference in 2015. In the years 2013-14, approximately 90 magistrates were trained by NIM in competition law.

In addition to the above-mentioned summer school course, **ERA** has also organised the following seminars in cooperation with NIM and co-funded by the "Training for Judges" programme:

- 'Training of the Romanian Judiciary on the Enforcement of EC Competition Law', 2010-12 and 2009-10
- 'Seminar for the Romanian Judiciary' (regarding EU competition law), 2006
- 'Training of Hungarian, Bulgarian and Romanian judges in EC Competition Law', 2005

Other providers of training to judges on EU competition law

The Freedom House Inc. Foundation received a grant from the "Training for Judges" programme for the project 'Economy, Legislation and Competition – Interdisciplinary Training for Romanian Magistrates' run in 2013 in partnership with NIM, MEDEL, the Competition Council, the Public Ministry and the National Association of Public Procurement (ANSA). It also received a grant in 2011 for a seminar entitled 'EU Anti-cartel and Anti-monopoly Law – Training for Romanian Judges'.

Transparency International received a grant in 2010 for a programme entitled 'Romanian Judges – Skills for EU Competition Law'.

23.5. Networking

NIM is a member of EJTN and includes the seminars on offer in EJTN'S catalogue to allow foreign magistrates to participate. In terms of networking with other legal professions, the above-mentioned training provided in 2013 by Freedom House Inc,

which was composed of a series of conferences across Romania, involved private practitioners and representatives of the Competition Council and DG Competition as speakers.

24. Slovak Republic

24.1. Competent courts for public enforcement

First Instance: Regional Court of Bratislava

Krajský súd v Bratislave Number of judges: 3
Záhradnícka 10, 813 66 Bratislava
Tel: +421 2/501 181 11
Email: podatelnaKSBA@justice.sk

Decisions of the Slovak competition authority are reviewed at first instance by a panel of three judges at this court.

Final Instance: Supreme Court

Najvyšší súd Slovenskej republiky Number of judges: 3
Župné Námestie 13, 81490 Bratislava
Tel: +421 2 59353 111
Email: odazv@nsud.sk

The Supreme Court hears appeals from the Regional Court of Bratislava on points of law only. Cases are heard by a panel of three judges.

24.2. Competent courts for private enforcement

First Instance: District Court of Bratislava II

Okresný súd Bratislava II Number of judges: 3
Záhradnícka 10, 812 44 Bratislava
Tel: +421 2/501 181 11

There are 54 District Courts in the Slovak Republic but according to Section 12 of Act No. 371/2004 Coll, the District Court of Bratislava II has exclusive jurisdiction to hear private-law cases concerning economic competition law. A panel of 3 judges deals with such cases.

Second Instance: Regional Court of Bratislava

Krajský súd v Bratislave Number of judges: 3
Záhradnícka 10, 813 66 Bratislava
Tel: +421 2/501 181 11
Email: podatelnaKSBA@justice.sk

Appeals from the District Court of Bratislava II are heard by the Regional Court of Bratislava. Cases are heard by a panel of three judges.

Final Instance: Supreme Court

Najvyšší súd Slovenskej republiky Number of judges: 3
Župné Námestie 13, 81490 Bratislava
Tel: +421 2 59353 111
Email: odazv@nsud.sk

The Supreme Court hears appeals from the Regional Court of Bratislava on points of law only. Cases are heard by a panel of three judges.

24.3. Competent courts for State aid-related cases

First Instance: District Courts

Okresný súdy Number of judges: 869

Actions related to State aid may be brought in any of the 54 District Courts in the Slovak Republic.

Second Instance: Regional Courts (Commercial Sections)

Krajský súdy Number of judges: 68

Appeals from the District Courts are heard by the eight Regional Courts on the grounds of the facts or law.

Final Instance: Supreme Court (Commercial Section)

Najvyšší súd Slovenskej republiky Number of judges: 16

The Supreme Court hears appeals from the Regional Courts on points of law only.

24.4. Judicial training

According to Art. 30, par. 7 of Act No. 358/2000 Coll., judges are obliged to extend their knowledge and make use of training opportunities available to them. The main body which provides the majority of the training for judges, prosecutors, trainees and clerks is the Judicial Academy of the Slovak Republic.

Judicial Academy of the Slovak Republic (JASR)

Justičná akadémia Slovenskej republiky
Suvorovova 5/C, 902 01 Pezinok
Tel: +421 33 69 03 305
E-mail: akademia@ja-sr.sk, www.ja-sr.sk

The JASR is a non-profit body funded by the Ministry of Justice. Training activities regarding specific areas of law are organised upon the request of judges, or where members of the board of the Academy deem training in that area necessary and efficient. Judges have until now not identified any specific training needs in EU competition law to the JASR. Attendance rates of Slovak judges in seminars organised by other training institutions remains low, which may be explained by the relatively small number of judges in the Slovak judicial system who may have to deal with EU competition law. Nevertheless, JASR offers a centralised course on unfair competition and EU competition law annually. In 2014 there were 27 participants.

The JASR also offers an e-course in EU Competition Law in cooperation with the EUI in Florence. Annually, between one and three participants from Slovakia apply and follow this course.

Other providers of training to judges on EU competition law

Seminars or conferences regarding EU competition law have been organised in coordination with the Czech judiciary in specific projects funded by the EU Commission.

Between 2011 and 2013, the Judicial Academy of the Czech Republic ran a series of seminars on EU competition law, funded by the Training for Judges programme. The JASR, the Ministry of Justice of Slovakia and the Ministry of Justice of the Czech Republic were partners in the project. The seminar on public contracts, which was held in Omšenie, Slovakia, had 23 Slovak participants. The second seminar in this project dealt with 'EU competition law – economic aspects' and was held in Kroměříž (CZ). Only one Slovak judge applied to participate in this seminar. The third seminar on EU competition law was held in Brno (CZ) and only three Slovak judges were present. All activities were in the Czech language and the cities of Kroměříž and Brno are less than two hours away from Bratislava, therefore neither the distance nor the language constituted obstacles to Slovak judges.

In 2015 the JASR offered spaces on a seminar in EU Competition Law by EJTN in Lisbon, but no Slovak judges applied. In 2014 applications were opened for a seminar in EU Competition Law in Tartu, Estonia (provided by the Baltic Summer School of Comparative Business Law): again no applications were received from Slovak judges.

24.5. Networking

Slovak judges have the opportunity to attend seminars on competition law with judges from other Member States, in particular with Czech judges.

25. Slovenia

25.1. Competent courts for public enforcement

(a) Review of infringement decisions

First Instance: Administrative Court (Competition Panel)

Upravno sodišče Number of judges: 3
Fajfarjeva 33
Ljubljana 1000
Tel: (+386) (01) 47 00 100
E-mail: urad.uprlj@sodisce.si

The Administrative Court has sole jurisdiction for the public-law control of Slovenian Competition Protection Agency (SCPA) decisions on infringements of competition law and may confirm, revoke or amend such a decision. Three of the 27 judges in the Administrative Court sit in a specialised panel to deal with such cases.

Final Instance: Supreme Court

Vrhovno sodišče Number of judges: 5
Tavcarjeva 9, Ljubljana 1000
Tel: +386 01 3005310
Email: urad.vsrs@sodisce.si

The Supreme Court has final jurisdiction over both private and public enforcement of competition law. Until August 2013 it had exclusive jurisdiction to review SPCA decisions as the court of first and last instance. It now hears appeals against the Administrative Court's rulings on points of law only. Such cases are heard by a panel of three judges drawn from the commercial section (two judges) and administrative section (one of three judges) of the Supreme Court.

(b) Review of fines

First Instance: County Court of Ljubljana (Misdemeanours Department)

Okrajno sodišče v Ljubljani Number of judges: 4
Miklošičeva 10
1000 Ljubljana
Tel.: (01) 474 76 00
E-mail: urad.ojlj@sodisce.si

After issuing a decision on an infringement of competition law (and typically after that decision has stood the test of judicial review before the Administrative Court), the SPCA issues a separate decision on the fine to be imposed. The decision on the fine can be appealed to the Ljubljana County Court, where it is dealt with by the court department dealing with other fines for misdemeanours and composed of judges with a background in criminal law.

Second Instance: Higher Court of Ljubljana (Criminal Section)

Višje sodišče v Ljubljani Number of judges: 14
Tavčarjeva 9
1000 Ljubljana
Tel: (+386) (01) 366 44 44
E-mail: urad.vislj@sodisce.si

Appeals from the County Court may be brought before the Higher Court on the grounds of the facts or points of law.

Final Instance: Supreme Court (Criminal Division)

Vrhovno sodišče Number of judges: 7

Appeals from then Higher Court to the Supreme Court may be brought on the basis of points of law only.

25.2. Competent courts for private enforcement

First Instance: District Court of Ljubljana (Commercial Section, Competition Group)

Okrožna sodišče v Ljubljani Number of judges: 3
Address: Tavčarjeva 9, 1000 Ljubljana
Tel: (+386) (01) 366 44 44
E-mail: urad.ozlj@sodisce.si

There are eleven District Courts in Slovenia dealing with private (civil law) actions. However all commercial litigation in competition cases goes through the District Court of Ljubljana, which has sole competence at first instance for the entire country. Of the 22 judges in the commercial law section, three are specialised in and deal specifically with competition law. These three judges are designated to hear competition law cases but also deal with other types of commercial disputes.

Second Instance: Higher Court of Ljubljana (Commercial Section, Competition Group)

Višje sodišče v Ljubljani Number of judges: 4
Tavčarjeva 9
1000 Ljubljana
Tel: (+386) (01) 366 44 44
E-mail: urad.vislj@sodisce.si

The four Higher Courts of Slovenia have jurisdiction to hear appeals against rulings of the local and district courts based on the facts or the law. The Higher Court of Ljubljana, as the competent court of appeal for the District Court of Ljubljana, rules on appeals concerning competition law. These cases are heard in the commercial law section, which is one of four sections of the court. Of the 17 judges in the commercial section, four are designated to deal with competition law.

Final Instance: Supreme Court

Vrhovno sodišče Number of judges: 13
Tavcarjeva 9, Ljubljana 1000
Tel: +386 01 3005310
Email: urad.vsrs@sodisce.si

The Supreme Court hears appeals from the Higher Court of Ljubljana in private actions relating to competition law on points of law only. Three Supreme Court judges are members of the commercial section of the court, but are not specialised in competition law. Appeals to the Supreme Court are heard in panels of five judges, so the judges of the commercial section are complemented by up to 10 judges from the civil section of the court on a rotating basis.

25.3. Competent courts for State aid-related cases

There are no courts or judges specialised in State aid in Slovenia, and no State aid-related cases have been filed. It is likely that were such a case to arise, it would go through either the commercial sections of the civil courts system (for disputes between private companies) or the administrative courts (for actions concerning a State body).

First Instance (State party)**: Administrative Court**

Upravno sodišče Number of judges: 27

First Instance (commercial dispute)**: District Courts** (Commercial Sections)

Okrožna sodišče Number of judges: 85

Second Instance (commercial dispute)**: Higher Courts** (Commercial Sections)

Višje sodišče Number of judges: 25

The Higher Courts hear appeals from the District Courts based on the facts or the law.

Final Instance: Supreme Court

Vrhovno sodišče Number of judges: 16

Appeals to the Supreme Court on a point of law will be heard by panels composed of judges from different sections depending on whether the appeal is from the

Administrative Court (administrative and commercial sections) or from the Higher Courts (civil and commercial sections).

25.4. Judicial training

Continuous judicial training is obligatory in some circumstances in Slovenia, but training in EU law is not compulsory.

Judicial Training Centre of the Republic of Slovenia (JTC)

Center za Izobraževanje v Pravosodju
Glinška ulica 12, SI-1000 Ljubljana
Tel: +386 1 369 5770
E-mail: cip.mp@gov.si or jtc.mp@gov.si

Judicial training for judges, prosecutors and trainees in Slovenia is provided by the Judicial Training Centre, which is affiliated to the Ministry of Justice. It is responsible for carrying out international exchanges of judicial staff, organising the participation of Slovenian judges and prosecutors in international training courses and co-ordinating participation of foreign judicial authorities (judges and prosecutors) in national training courses on EU law.

The JTC is funded 76% by State grants, 18% by EU project grant(s) and 6% by registration fees. Lawyers in private practice may participate in events that are not financed by the state.

Other providers of training to judges on EU competition law

- **Ljubljana University** was one of the most frequent recipients of grants under the Training for Judges Programme with four projects funded in the period of 2002-2013:
  - The Institute for Comparative Law received two grants in 2011-14 for seminars entitled 'Training of Slovenian and Croatian Judges for the Application of EU Competition Law'
  - The Faculty of Economics hosted 'Removing obstacles: an advanced phase in mutual learning experience towards good practices in competition law enforcement' in 2012-14
  - The Faculty of Law received a grant in 2007 to provide education and training for Slovenian judges in the field of EC competition law

- **The Supreme Court of the Republic of Slovenia** was also a beneficiary of the "Training for Judges" programme in 2004 in partnership with **ERA**.

25.5. Networking

Slovenia is represented in the EJTN and the Supreme Court of Slovenia has in the past partnered with ERA, enabling judges to participate in seminars on EU competition law with members of other Member States' judiciaries.

26. Spain

26.1. Competent courts for public enforcement

First Instance: National High Court (Administrative Section)

Audiencia Nacional de España Number of judges: 34
Calle de Prim 12, 28004 Madrid
Tel:+34 913 97 33 25

The National High Court has exclusive jurisdiction at first instance for the judicial review of the decisions of the national competition authority (*Comisión Nacional de los Mercados y de la Competencia*). Such cases are heard before the administrative chamber. There are 120 judges specialised in administrative law matters in Spain. These specialised judges have priority in appointments to the National High Court's administrative section. The court can confirm, reduce or annul fines imposed by the NCA. Cases are heard by a minimum of three judges.

Final Instance: Supreme Court (Administrative Section)

Tribunal Supremo Number of judges: 33
Plaza de La Villa De Paris S/N
28 004 Madrid
Tel: +34 913971263

Cases concerning the judicial review of national competition authority decisions are heard at final instance in the administrative section of the Supreme Court on points of law only.

26.2. Competent courts for private enforcement

First Instance: Commercial Courts

Juzgados de lo Mercantil Number of judges: 64

The 2007 Competition Act gave the civil courts full competence to apply antitrust rules. The Commercial Courts are civil courts in every region, directly entrusted with the application of national and EU competition rules. They are partly specialised, dealing also with other commercial matters. Private-law cases where a claimant seeks a declaration that a contractual clause or commercial conduct is null as a result of being contrary to competition rules are heard in the Commercial Courts. Each Commercial Court is composed of a single judge. There are 76 judges specialised in commercial law in Spain, many of whom sit in the Commercial Courts.

Second Instance: Provincial Courts (Civil Sections)

Audiencias Provinciales Number of judges: c. 400

There are 50 Provincial Courts in Spain, which handle appeals based on the facts or points of law concerning private actions in the field of competition law in their civil sections. Some courts have sections specialised in competition law: Madrid's 28th section and Barcelona's 15th section. Appeals from the commercial courts are heard in panels of at least three judges.

Final Instance: Supreme Court (Civil Section)

Tribunal Supremo Number of judges: 12

Private actions relating to the infringement of competition law are heard at final instance on points of law only in the civil section of the Supreme Court.

26.3. Competent courts for State aid-related cases

Actions in which the State is party may be brought before the administrative courts or administrative sections of the higher courts. Due to the decentralised structure of the Spanish State, jurisdiction in such cases depends on the administrative body granting the aid. Actions between private parties concerning the illegal attribution of State aid may be brought before the civil courts.

(a) Administrative cases

First Instance (local authorities)**: Administrative Courts**

Juzgados de lo Contencioso-administrativo Number of judges 241

The administrative courts of first instance are competent for cases concerning the actions of local authorities and decentralised administrative bodies, including in areas where State aid issues often arise, such as grants, subsidies and taxes.

First Instance (regional authorities) **or Second Instance** (appeal)**: Regional High Courts** (Administrative Sections)

Tribunales Superiores de Justicia Number of judges: 328

The administrative sections of the Regional High Courts are responsible for cases concerning the actions of regional authorities (i.e. the 17 Autonomous Communities) and for appeals from the administrative courts of first instance provided that the value of the case exceeds €30,000..

First Instance (central administration)**: National High Court** (central administrative courts of first instance)

Audiencia Nacional de España (Juzgados centrales de lo contencioso-administrativo) Number of judges: 12

Within the National High Court there are twelve central administrative courts of first instance, each composed of one judge, which deal with actions of the central government and public administration.

Second Instance (central administration)**: National High Court** (Administrative Section)

Audiencia Nacional de España (Sala de lo Contencioso-administrativo) Number of judges: 34

The administrative section of the National High Court hears appeals from the central administrative courts of first instance concerning actions of the central government and public administration.

Final Instance: Supreme Court (Administrative Section)

Tribunal Supremo Number of judges: 33

Appeals on points of law from the Regional High Courts and National High Court in cases concerning State aid may be heard at final instance in the administrative section of the Supreme Court. The Supreme Court sits at first and final instance for cases involving decisions of the Council of Ministers (as opposed to individual ministries).

(b) Civil cases

First Instance: Commercial Courts

Juzgados de lo Mercantil Number of judges: 64

Competitors of a beneficiary of State aid can also bring an action before a Commercial Court and request it to order the beneficiary to reimburse the aid to the relevant public administration.

Second Instance: Provincial Courts (Civil Sections)

Audiencias Provinciales Number of judges: c. 400

Final Instance: Supreme Court (Civil Section)

Tribunal Supremo Number of judges: 12

26.4. Judicial training

Continuous judicial training is only compulsory in Spain where a judge changes post to another jurisdiction. Several national institutions have provided continuous training for judges on EU competition law.

Judicial School of the General Council of the Judiciary (EJ-CGPJ)

Escuela Judicial del Consejo General del Poder Judicial
Carretera de Vallvidrera 43-45
08017 Barcelona
Tel: +34 93 406 7300/7301
E-mail: cristinag.beilfuss@cgpj.es

The EJ-CGPJ was one of the most frequent recipients of grants under the "Training for Judges" programme, offering the following projects to Spanish judges on EU competition law between 2002 and 2013:

- 2015: 'Advanced Training of National Judges on the Application of European law' in partnership with **ERA**
- 2013: 'Initial Training Course on EU Competition Law', 'Antitrust damages, EU competition law and the role of courts: public and private enforcement of Articles 101, 102 and 107 TFEU for national judges' and 'Fines and Crimes Before Judges in EU Competition Law'
- 2009: 'Training of the Spanish Judiciary on EC Competition Law' in partnership with **ERA**
- 2007: 'Seminar for the Spanish Judiciary' in partnership with **ERA**
- 2005: 'Seminar for the Spanish Judiciary' in partnership with **ERA**

The EJ-CGPJ has also organised a number of activities in the field in recent years with national funding, for example:

- 2015: 'Competition Law' seminar
- 2014: 3-day workshop: 'Economic Administrative Law: Fundamental Freedoms and Competition Law'
- 2012: 3-day workshop: 'The Judicial Application of Competition Law'

The selection procedure for judges applying to activities of the EJ-CGPJ within the framework of the EJTN and those organised by other EJTN members to which Spanish judges may be sent requires that candidates pass a test in the language in which the seminar is offered. Spanish judges rarely request training in competition law and where the EJ-CGPJ offers national or regional meetings or seminars on competition law, the response from judges is often limited. This may not mean a lack of need or even demand, though. Judges can only attend a limited number of courses each year. The fact that they might choose to attend courses on other subjects in a particular year might be because these other courses deal, for example, with a particularly relevant law reform. Language barriers may be an obstacle with courses not held in Spanish.

Other providers of training to judges on EU competition law

Other Spanish training-providers that have received funding from the "Training for Judges" programme include:

- **University of Valencia:** 'Training of National Judges in EU Competition Law', 2014
- **Fundación Asmoz de Eusko Ikaskuntza:** 'e-Curso Sobre Derecho Europeo De La Competencia Para Jueces Nacionales', 2007
- **Fundación de la Comunidad Valenciana – Institute Mediterraneo de estudios europeos:** 'Programa de Formación de Jueces en Materia de Derecho Europeo de la Competencia', 2005

26.5. Networking

The EJ-CGPJ, as a member of EJTN, organises training activities which are open to all European judges. Spanish judges have few other opportunities to network with judges from other Member States in the field of competition law training. 1,545 non-Spanish judges followed training programmes in Spain between 2005 and 2010. The 2013 EJ-CGPJ seminar 'Antitrust damages, EU competition law and the role of courts: public and private enforcement of articles 101, 102 and 107 TFEU for national judges' was attended by 70 judges from 12 Member States, but the majority of the EU competition law training available to Spanish judges was only attended by the Spanish judiciary.

Different institutions are responsible for the training of judges and non-judges – the Centre of Legal Studies (*Centro de Estudios Jurídicos*) trains prosecutors and court staff – therefore training is usually aimed at members of the legal professions separately. Prosecutors, clerks, lawyers, university professors and state attorneys are, however, allowed to join the courses by special agreements with their respective institutions.

In Spain, traditionally, training for Spanish judges on EU competition law will not often involve economists as participants or as speakers, as the field is considered either from a legal point of view or from an economic point of view.

27. Sweden

The information in this country profile corresponds to the situation at the date of delivery of this study on 9 January 2016. Legislation is pending before the Swedish Parliament that would change the distribution of competence for both public and private enforcement of competition law (but not State aid) from 1 September 2016[1]. A note in each section explains how the legislation, if adopted, would change the distribution of the relevant competence.

27.1. Competent courts for public enforcement

First Instance: Stockholm City Court

Stockholms Tingsrätt Number of judges: 5
Scheelegatan 7. Gods: Bergsgatan 38,
112 28 Stockholm
Tel: +46 8-561650 00
Email: stockholms.tingsratt@dom.se

The national competition authority (*Konkurrensverket*) can accept settlements to some extent during the investigation phase, and can adopt injunctions. Apart from this, the NCA cannot adopt decisions to impose fines or prohibit concentrations. Instead, the NCA must bring such actions before Stockholm City Court. Of the 50 judges at the Stockholm City Court, five are specialised or partly specialised in competition law. Public enforcement cases are decided by panels of four, composed of two qualified judges and two experts in economics.

If adopted, the legislation mentioned above would transfer to the Stockholm City Court all competence related to the public enforcement of competition law at first instance.

Final Instance: Market Court

Marknadsdomstolen Number of judges: 7
Birger Jarls Torg 9, P.O. Box 2217
S-103 15 Stockholm
Tel: +46 8 412 10 30
Email: mail@marknadsdomstolen.se

This specialised court handles cases relating to competition, unfair marketing practices and consumer legislation.

[1] *http://www.regeringen.se/contentassets/09233a2f24e74539baa5ce1fefdad4c4/151605700webb.pdf*

This court acts as first and final instance for the public-law review of NCA decisions to issue an injunction against an undertaking to terminate an infringement. It should be noted that where the NCA decides not to take action on a complaint, the complainant can bring a private action before the Market Court.

Appeals against the Stockholm City Court's imposition of competition fines and prohibitions of concentrations are heard in the Market Court at final instance. It may rule on law and facts.

Cases are decided by panels of four of whom one is the chairman of the Market Court. The Market Court is composed of the chairman, a vice-chairman and five other judges, of whom one is an ordinary qualified judge and four are experts in economics.

If adopted, the legislation mentioned above would abolish the Market Court and transfer competence for the public enforcement of competition law at final instance to a new Patents and Market Appeal Court, which will be a specialised division of Svea Court of Appeal.

27.2. Competent courts for private enforcement

First Instance: District Courts

Tingsrätter	Number of judges: 588
of which: **Stockholms Tingsrätt** (Stockholm City Court)	Number of judges: 5

In Sweden private parties may not enforce competition rules directly before the national courts other than to claim damages or restitution; such compensation claims can be brought before the District Court within whose jurisdiction the company has domicile, or before the Stockholm City Court which has competence for the whole country. There are 48 District Courts of first instance of general jurisdiction in Sweden but in practice, private claims are mostly brought before the Stockholm City Court. Nullity of allegedly anti-competitive agreements can also be tried by the District Courts and Stockholm City Court. Cases on private enforcement are normally decided by panels of three qualified judges.

If adopted, the legislation mentioned above would give the Stockholm City Court exclusive competence for the private enforcement of competition law at first instance.

Second Instance: Courts of Appeal

Hovrätter	Number of judges: approx. 217

There are six Courts of Appeal in Sweden which may all hear private actions. Each Court of Appeal hears appeals in private cases from the district courts within their jurisdiction. The Svea Court of Appeal in Stockholm hears appeals of private-law competition actions from the Stockholm City Court, therefore this Court of Appeal deals with private competition law actions most frequently. The Courts of Appeal can decide on facts and law.

If adopted, the legislation mentioned above would make the Svea Court of Appeal the only Court of Appeal to handle private actions related to competition law at second instance. The specialised division that would handle such cases has yet to be established.

Final Instance: Supreme Court

Högsta Domstolen Number of judges: 16
Riddarhustorget 8
111 28 Stockholm
+49 8 561 666 00
hogsta.domstolen@dom.se

Private competition cases can be appealed to the Supreme Court if leave for appeal is granted, in which case it can carry out a full review of facts and law.

27.3. Competent courts for State aid-related cases

(a) General courts

First Instance: District Courts

Tingsrätter Number of judges: 588

Interim injunctions to prevent the attribution of State aid before or after a decision by the European Commission can be adopted by District Courts according to Section 8 of the law on the application of the EU State aid rules ("Lag om tillämpning av Europeiska unionens statsstödsregler") (2013:388), which entered into force in July 2013. There are 48 District Courts in Sweden and jurisdiction follows the ordinary rules in the Code of Procedure. The forum is normally dependent on the domicile of the defendant.

Actions to recover illegally attributed State aid can be brought in the District Courts by the party that has granted unlawful aid (Section 6 of the law 2013:388). There is no particular legislation in place for private actions to claim damages from the State for harm caused by unlawful State aid (prop. 2012/13:84 at 22), so the ordinary rules on civil procedure would apply to such cases and the District Courts would also be competent.

Second Instance: Courts of Appeal

Hovrätter Number of judges: approx. 217

The judgments of the District Courts can be appealed on the facts or points of law to the Courts of Appeal provided that leave for appeal is granted.

Final Instance: Supreme Court

Högsta Domstolen Number of judges: c. 16

State aid-related cases can be appealed to the Supreme Court if leave for appeal is granted, in which case it can carry out a full review of facts and law.

(b) Administrative courts

First Instance: Administrative Courts

Förvaltningsrätter Number of judges: 215

Actions under administrative law can be brought against decisions of regional and local municipalities conferring State aid. According to Section 28 of the Code on Administrative Procedure (1971:291), the Administrative Courts can decide to stop the execution of the decision under appeal, in other words to "freeze" the decision pending trial. There are 12 Administrative Courts in Sweden.

Second Instance: Administrative Courts of Appeal

Kammarrätter Number of judges: 127

The judgments of the Administrative Courts can be appealed on points of law to one of the four Administrative Courts of Appeal provided that leave for appeal is granted by the administrative court.

Final Instance: Supreme Administrative Court

Högsta förvaltningsdomstolen Number of judges: 14

The Supreme Administrative Court only accepts appeals on points of law from the Administrative Courts of Appeal in cases where it itself grants leave for appeal and its ruling may be important as a precedent. In practice, the Administrative Courts of Appeal are the final instance in most cases.

27.4. Judicial training

There is no obligatory continuous training for the judiciary in Sweden – initial training is also not compulsory for Swedish judges. Judicial training for judges and trainee judges is provided by the Courts of Sweden Judicial Training Academy (*Domstolsakademin*) which is part of the Swedish National Courts Administration. As the Academy is represented in EJTN, Swedish judges also have the opportunity to go to European-wide training events. Sweden had 37 participants in the Training for Judges Programme in 2007-13.

Courts of Sweden Judicial Training Academy (National Courts Administration)

Domstolsverket
Brunnsgatan 1, 551 81 Jönköping
Tel: +46 36-15 53 00
Email: domstolsakademin@dom.se

The Courts of Sweden Judicial Training Academy is entirely funded by the State. The Academy provides training for judges and trainee judges only. Private lawyers may

not participate in training and prosecutors may only occasionally participate in training events for judges. Training specifically in EU competition law features seldom in the Academy's training programme.

In 2004, the Academy received a grant from the "Training for Judges" programme and ran conferences under the programme 'Training of National Judges in EC Competition Law and Cooperation Between National Judges.'

Other providers of training to judges on EU competition law

ERA provided 'Training of the Swedish Judiciary on EC Competition Law' in 2010 and 'Training of the Swedish Judiciary (within the field of European competition law)' in 2006, both with co-funding from the "Training for Judges" programme.

27.5. Networking

Generally, training provided by the Courts of Sweden Judicial Training Academy is open only to judges. However, lawyers and prosecutors are invited to some courses where it is deemed beneficial to have the view of all actors involved in proceedings.

Participation of foreign professionals in some training sessions is possible within the Academy's training programme.

28. United Kingdom

28.1. Competent courts for public enforcement

(a) Public-law control of national competition authority decisions

First Instance: Competition Appeal Tribunal

Victoria House
Bloomsbury Place
WC1A 2EB London
Tel. +44 20 7979 7979

Number of judges: 31

The Competition Appeal Tribunal (CAT) was created by the Enterprise Act 2002, which came into force on 1 April 2003. It is a specialised tribunal with exclusive jurisdiction to review decisions of the Competition and Markets Authority and other economic regulatory authorities. Cases are heard before a Tribunal consisting of three members: either the President or a member of the panel of chairmen and two ordinary members. The members of the panel of chairmen are judges of the Chancery Division of the High Court and other senior lawyers. The ordinary members have expertise in law, business, accountancy, economics and other related fields. The Tribunal's jurisdiction extends to the whole of the United Kingdom, which is otherwise divided into the three separate jurisdictions of England & Wales, Scotland and Northern Ireland, as reflected at the appeal stage.

Second Instance (England & Wales)**: Court of Appeal E&W**

The Royal Courts of Justice
WC2A 2LL London
Tel. +44 20 7960 1900

Number of judges: 43

Appeals on a point of law from CAT rulings in proceedings in England & Wales may be brought before the Civil Division of the Court of Appeal of England & Wales provided that permission is granted either by the CAT or the Court itself. Judges of the Court of Appeal may sit in either the Civil or the Criminal Divisions.

Second Instance (Scotland)**: Court of Session** (Inner House)

Cùirt an t-Seisein
Prime Court
Parliament House
Parliament Square
EH1 1RQ Edinburgh
Tel. +44131 225 2595
supreme.courts@scotcourts.gov.uk

Number of judges: 12

Appeals on a point of law from CAT rulings in proceedings in Scotland may be brought before the Inner House (appellate court) of the Court of Session provided that permission is granted either by the CAT or the Court.

Second Instance (Northern Ireland)**: Court of Appeal NI**

Royal Courts of Justice
Chichester Street
BT1 3JF Belfast
Tel. +4428 9023 511

Number of judges: 4

Appeals on a point of law from CAT rulings in proceedings in Northern Ireland may be brought before the Court of Appeal of Northern Ireland provided that permission is granted either by the CAT or the Court.

Final Instance: The Supreme Court

Parliament Square
SW1P 3BD London
Tel. +44 2079601500
Alt. +44 2079601900

Number of judges: 12

The Supreme Court is the final court of appeal for all United Kingdom civil cases and hears appeals on arguable points of law of general public importance from the Court of Appeal of England & Wales, the Court of Session in Scotland and the Court of Appeal of Northern Ireland. The Supreme Court selects which appeals it will hear. The court has no specialised chamber or division for competition cases.

(b) Criminal liability for cartel offences

In the UK, participation in an illegal cartel attracts personal criminal liability with penalties of up to five years imprisonment and/or unlimited fines (Enterprise Act 2002). Criminal proceedings are pursued in the appropriate courts of the three separate jurisdictions.

First Instance (England & Wales)**: Magistrates Courts** or **Crown Court**

Magistrates' Courts Number of judges: 21,500

Crown Courts Number of judges: 600+

c/o Judicial Office
11th floor, Thomas More Building
Royal Courts of Justice
Strand
London WC2A 2LL

Cases can begin in the Magistrates' Courts or the Crown Court depending on the seriousness of the offence or whether the defendant requests the case be referred to the Crown Court directly. Magistrates are volunteer judicial office holders and do not require legal training or qualifications. The role of the Magistrates' Courts in cartel

cases would usually be to conduct preliminary hearings, as more serious offences are committed to the Crown Court. The Crown Court can also hear appeals from the Magistrates' Court. The Crown Court is a single entity that sits in 77 locations across England & Wales and is composed of some 600 full-time circuit judges as well as High Court judges and part-time judges (usually practising lawyers) known as recorders.

First Instance (Scotland)**: Sheriff Courts**

c/o Scottish Courts and Tribunals Service
Saughton House
Broomhouse Drive
Edinburgh EH11 3XD
Tel. 0131 444 3300
enquiries@scotcourts.gov.uk

Number of judges: c. 200

The Sheriff Courts deal with the majority of civil and criminal court cases in Scotland. In more serious cases – known as solemn proceedings – the sheriff sits with a jury of 15 persons. In less serious cases – known as summary proceedings – the sheriff sits alone. As well as permanent sheriffs, a number of practising lawyers serve as temporary sheriffs.

First Instance (Northern Ireland)**: Magistrates Courts** or **Crown Court**

Magistrates' Courts Number of judges: 21+

Crown Court Number of judges: 32

The distinction between Magistrates' Courts and the Crown Court in Northern Ireland is similar to that in England & Wales. The 21 Magistrates' Courts are each presided by a Deputy District Judge, who is accompanied by lay magistrates. The Crown Court is composed of judges from the Court of Appeal, High Court and County (civil) Courts.

Second Instance (England & Wales)**: Court of Appeal E&W**

Number of judges: 43

Appeals from the Crown Court are heard by the Criminal Division of the Court of Appeal of England & Wales.

Second Instance (Northern Ireland)**: Court of Appeal NI**

Number of judges: 4

Appeals from the Crown Court are heard by the Court of Appeal of Northern Ireland.

Final Instance (Scotland)**: High Court of Justiciary** (Court of Criminal Appeal)

Parliament House
Parliament Square
EH1 1RQ Edinburgh
Tel. +44131 225 2595
supreme.courts@scotcourts.gov.uk

Number of judges: 22

Sitting as the Court of Criminal Appeal, the High Court of Justiciary is the supreme criminal court of Scotland. It hears appeals from the Sheriff Courts and its decision is final. The same judges sit in the High Court of Justiciary as in the Court of Session.

Final Instance (England & Wales and Northern Ireland)**: The Supreme Court**

Number of judges: 12

The Supreme Court is the final court of appeal for criminal cases in England & Wales and Northern Ireland, but not Scotland.

28.2. Competent courts for private enforcement

First Instance: Competition Appeal Tribunal

Number of judges: 31

Until recently, actions for damages as a result of an infringement of EU competition law could be brought before the CAT only when the relevant competition authority (CMA, sectoral regulator or the European Commission) had made a decision establishing that one of the relevant prohibitions had been infringed (follow-on action). Following the entry into force of the Consumer Rights Act 2015 on 1 October 2015, however, the jurisdiction of the CAT has been extended to include stand-alone claims, which were previously only possible before the High Court of England & Wales and its equivalents in Scotland and Northern Ireland. While the jurisdiction of the CAT extends to the whole of the UK, appeals against its judgments are heard by the relevant appeals courts in the three jurisdictions.

First Instance (England & Wales)**: High Court E&W**

Chancery Division
Rolls Building
110 Fetter Lane
EC4A 1NL London
Tel. +4420 7947 7783
chancery.issue@hmcts.gsi.gov.uk

Number of judges: 33

Queen's Bench Division
The Royal Courts of Justice
WC2A 2LL London
Tel. +4420 7947 7772

The Chancery Division (18 judges) is one of three divisions of the High Court of England & Wales (alongside the Queen's Bench Division and Family Division) and deals with competition and other business-related cases, such as property disputes, intellectual property issues and bankruptcy cases. Exceptionally, complex or high-value competition-related cases may also be dealt with in the Commercial Court (15 judges), which is a specialised sub-division of the Queen's Bench Division.

First Instance (Scotland)**: Sheriff Courts** or **Court of Session** (Outer House)

Sheriff Courts Number of judges: c. 200

Court of Session Number of judges: 22

Private actions relating to antitrust infringements may be brought before the Sheriff Courts (for claims up to £100,000) or the Outer House of the Court of Session (in both cases, a single judge sitting at first instance). At the Court of Session there are designated judges to deal with intellectual property cases but not competition-related cases.

First Instance (Northern Ireland): **High Court NI**

Royal Courts of Justice
Chichester Street
BT1 3JF Belfast
Tel. +4430 0200 7812
adminoffice@courtsni.gov.uk

Number of judges: 14

Similarly to England & Wales, the High Court of Northern Ireland has a Chancery Division and a Commercial Office in its Queen's Bench Division, in both of which competition-related cases might arise.

Second Instance (England & Wales)**: Court of Appeal E&W**

Number of judges: 43

Appeals from private actions before the High Court of England & Wales or before the CAT for proceedings in England & Wales may be brought before the Civil Division of the Court of Appeal provided that permission to appeal is granted.

Second Instance (Scotland)**: Court of Session** (Inner House)

Number of judges: 12

Appeals from the Sheriff Courts and the Outer House of the Court of Session, or from the CAT for proceedings in Scotland, are heard by the Inner House of the Court of Session. From 2016, a newly established Sheriff Appeal Court will handle civil appeals from the Sheriff Courts at second instance.

Second Instance (Northern Ireland)**: Court of Appeal NI**

Number of judges: 4

Appeals from the High Court of Northern Ireland or from the CAT for proceedings in Northern Ireland may be brought before the Court of Appeal of Northern Ireland provided that permission is granted.

Final Instance: The Supreme Court

Number of judges: 12

The Supreme Court is the final instance for all civil cases in the UK.

28.3. Competent courts for State aid-related cases

Judicial review of public authorities' decisions regarding State aid lies with the general courts which might issue quashing, prohibiting or mandatory orders and injunctions. The same competence applies for recovery actions by which the public authority seeks repayment of a grant by its recipient, and for actions against the public authority brought by competitors of the recipient seeking a mandatory order to recover the aid.

First Instance (England & Wales)**: High Court E&W** (Chancery Division)

Chancery Division
Rolls Building
110 Fetter Lane
EC4A 1NL London
Tel. +4420 7947 7783
chancery.issue@hmcts.gsi.gov.uk

Number of judges: 18

The Chancery Division (18 judges) is one of three divisions of the High Court of England & Wales (alongside the Queen's Bench Division and Family Division) and deals with competition, State aid and other business-related cases, such as property disputes, intellectual property issues and bankruptcy cases.

First Instance (Scotland)**: Sheriff Courts** or **Court of Session** (Outer House)

Sheriff Courts Number of judges: c. 200

Court of Session Number of judges: 22

Actions relating to State aid may be brought before the Sheriff Courts (for claims up to £100,000) or the Outer House of the Court of Session (in both cases, a single judge sitting at first instance). At the Court of Session there are designated judges to deal with intellectual property cases but not State aid-related cases.

First Instance (Northern Ireland): **High Court NI**

Number of judges: 14

Similarly to England & Wales, the High Court of Northern Ireland has a Chancery Division in which State aid-related cases might arise.

Second Instance (England & Wales)**: Court of Appeal E&W**

Number of judges: 43

Appeals from actions before the High Court of England & Wales may be brought before the Civil Division of the Court of Appeal provided that permission to appeal is granted.

Second Instance (Scotland)**: Court of Session** (Inner House)

Number of judges: 12

Appeals from the Sheriff Courts and the Outer House of the Court of Session are heard by the Inner House of the Court of Session. From 2016, a newly established Sheriff Appeal Court will handle appeals from the Sheriff Courts at second instance.

Second Instance (Northern Ireland)**: Court of Appeal NI**

Number of judges: 4

Appeals from the High Court of Northern Ireland may be brought before the Court of Appeal of Northern Ireland provided that permission is granted.

Final Instance: The Supreme Court

Number of judges: 12

The Supreme Court is the final instance for all State-aid cases in the UK.

28.4. Judicial training

Ongoing training is compulsory in specific circumstances including a change of jurisdiction or where a judge is requested to undertake more complex work, for example concerning terrorism or serious fraud. Training for judges, magistrates and clerks is provided by the Judicial College in England and Wales, by the Judicial Studies Committee in Scotland and the Judicial Studies Board in Northern Ireland. Apart from fee-paid recorders or part-time sheriffs (i.e. lawyers in private practice sitting as part-time judges), lawyers in private practice may not participate in training programmes.

Competition Appeal Tribunal

At national level, the CAT has a statutory obligation to provide training for those appointed to hear competition law cases. It provides both initial and ongoing training including regular seminars covering both EU and national law and competition economics. For example, the CAT has provided seminars on competition law attended by judges of the Chancery Division of the High Court and the Court of Appeal since 2004.

Judicial College (England & Wales)

Steel House,
11 Tothill Street,
London SW1H 9LJ
Tel. +44 203 334 0700

Judicial Institute for Scotland

Parliament House
11 Parliament Square
Edinburgh EH1 1RQ

Tel. +44 (0)131 240 6930
judicialinstitute@scotcourts.gov.uk

Judicial Studies Board (Northern Ireland)

2nd Floor
Royal Courts of Justice
Chichester Street
BT1 3JF Belfast
Tel. + 44 (0) 2890 725908

The three judicial training institutions in the UK meet twice yearly, together with their counterpart in the Republic of Ireland, to discuss collaboration on training and share best practice. They are all members of EJTN and participates in the exchange and catalogue programmes.

Other providers of training to judges on EU competition law

ERA ran the following seminars with funding from the "Training for Judges" programme:

- "Seminar for the UK judiciary" (2005, in partnership with the Judicial Studies Boards of England and Wales (predecessor of the Judicial College))
- "The establishment of the competent jurisdiction and the quantification of damages relating to private enforcement of Articles 101 and 102 TFEU" (2012, in partnership with the Law Society of England & Wales)
- "Advanced training of national judges on the application of European competition law rules" (2014)

The **Association of European Competition Law Judges**, the secretariat of which is hosted by the CAT, was a direct beneficiary of the "Training for Judges" programme in 2002, 2003, 2004 and 2006.

The **British Institute of International and Comparative Law** was also a direct beneficiary in 2004.

The **Institute of European & Comparative Law at the University of Oxford** was a beneficiary of the "Training for Judges" programme and ran projects entitled "Training of national judges in EC Competition Law" in 2005 and 2006 and "Proposals to provide EC Competition law training, aimed principally at judges from new and candidate EU member states" in 2007 and 2008.

The **Jevons Institute of Competition Law and Economics at University College London** was a beneficiary and ran a seminar series entitled "Jevons Institute/IDEI Programme for training of judges and judicial co-operation in EC Competition Law and Economics" (November 2010-June 2012).

The **University of the West of England** was a direct beneficiary in 2007 and 2011.

Oxera Consulting Ltd was also a beneficiary and ran a seminar series entitled "Interpreting economic evidence in competition law cases" (2013).

28.5. Networking

Following the example set by its first President, Sir Christopher Bellamy, a former judge of the then Court of First Instance of the European Communities, the CAT has been at the forefront of encouraging cross-border networking, with its Registrar Charles Dhanowa being the Secretary General of the AECLJ and its President Sir Peter Roth being the Association's Treasurer.

The CAT encourages networking through its own seminars, through visits by judges from overseas, through engagement in the AECLJ and indeed through other conferences. The CAT has often provided speakers for events co-funded by the European Commission.

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Study on judges' training needs in the field of European competition law

Annex 2

Training needs analysis

Annex 2.1. Objectives of Research Area 2

The aim of Research Area 2 is to provide a clear picture of the needs of judges dealing with competition law in terms of training and networking as required in Section 2.1. subsection 3. of the tender specifications:

Self-assessment of knowledge of European competition law:

- how well do judges know European competition law, in particular which competition rules have direct effect, as well as when and how to apply it?
- which aspects of European competition law do judges know better/worse?
- which aspects of European competition law would judges like to understand better, e.g. legal terminology, handling of expert witnesses, economic analysis, other legal or non-legal issues?

Assessment of current training provision on European competition law:

- to what extent do the current training offers at national and European level respond to judges' needs and preferences?
- are there significant variations by jurisdiction?
- on what subjects is there too much/too little training provision?
- at which levels (e.g. initial, basic, continuing, advanced) is there too much/too little training provision?
- do limitations apply to judges' participation in training programmes and, if so, of what kind?

Judges' priorities and preferences regarding training:

- attitudes to different training formats, e.g. face-to-face or online?
- preconditions to participation in training programmes, e.g. how important are sufficient advance notice and convenient timing? how much does it matter whether programmes are intended for judges only or mixed groups?
- what role do venue, funding conditions and other practical considerations play?
- how important is it that programmes are offered in judges' own languages and/or in a common language (which?)? to what extent is (competition-specific) legal language training required?

Judges' needs regarding networking:

- to what extent do judges want to network and with whom?
- to what extent do judges makes use of existing networking opportunities?
- what forms of networking would judges like to use more?
- how willing/confident would judges be about using an online forum for exchange of information and best practices, and under which conditions (e.g. secure access, anonymity, language regime)?

Judges' needs regarding databases:

- which existing databases do judges use and why?
- what forms of database would judges like to use more: content, format, etc.?

Annex 2.2. Literature Review and Bibliography

I. Articles 101 and 102 TFEU

Legal and policy bases for judicial training and their essential objective

1. Art 67 TFEU establishes the area of freedom, security and justice, whereas Art 81(2)(h) and 82 (1)(c)TFEU provides a competence for the EU to train the judiciary and judicial staff in civil and criminal matters.

2. In addition, the Commission set out exact goals and objectives in a Communication,[1] which identified competition law as one of the judicial training needs. Effective implementation of Union law, including legal security and uniform interpretation, is a key objective of judicial training.

An assessment of judicial training needs in EU competition law

3. There is no available detailed and official analysis on the competition law training programmes on EU or national competition law or information on national and EU level training. A Study produced by ERA and EJTN for the European Parliament in 2011[2] provided an extensive analysis on access and obstacles to judicial training on EU law in the Member States but did not specifically address the needs related to competition law.

4. In terms of general EU law judicial training needs, the EP Study concluded that although awareness of the relevance of EU law was relatively high among judges, the knowledge of *how* and *when* to apply EU law, in particular the use of the preliminary reference procedure, was still lacking. It also identified obstacles to the participation of judges in EU law training, the most significant of which was the organisation of the justice system itself, which inhibits participation in training because the caseload of training participants is not reduced and they are not replaced during their absence. Other significant obstacles to participation in judicial training programmes included: lack of information about the training programmes available; short notice of when training programmes will take place; lack of places, particularly for judicial exchanges; lack of funding by employers; institutional opposition; work/life balance; and language barriers.

5. The European Commission presents annual reports[3] and other communications regarding the actions taken in supporting judicial training in the EU under the Treaty Articles mentioned above of the TFEU. However, they are of a general

[1] *European Commission Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Building trust in EU-wide justice: A new dimension to European Judicial Training (COM(2011) 551 final), 13.09.2011.*
[2] *Study on Judicial Training in the European Union Member States, European Parliament (2011): http://www.europarl.europa.eu/RegData/etudes/etudes/join/2011/453198/IPOL-JURI_ET(2011)453198_EN.pdf*
[3] *The latest Annual Report of 2014 is available at: http://ec.europa.eu/justice/criminal/files/final_report_2014_en.pdf*

nature and do not analyse the content of training in the policy areas, but rather provide a review of actions taken and statistics. The present Study commissioned by the Commission on judges' training needs in EU competition law is the first comprehensive survey on national judicial training programmes and evaluation of such programmes in this area.[4]

6. Furthermore, Cseres (2010) emphasises that there is a lack of data available on judicial appeal cases where EU competition law was applied, as only statistics, but not the content of cases, or rate of references to EU case law, are available to the wider public (as available only in national languages). This makes the assessment of the content and performance of national courts very limited.

7. In the field of State aid law, the European Commission produces a ScoreBoard which has some useful statistics and an overview of State Aid in the national courts[5]. In 2006 and 2009 (Lovells) the Commission produced a Study on the enforcement of State aid rules at national level, with Member State. The last report on the application of State aid law by national courts dates from 1999. There is also a Handbook, "Enforcement of EU State aid law by national courts" (2010), which gathers the main EU notices and regulations regarding State aid of relevance to national judges. It includes the Commission's Enforcement Notice, which aims at offering national courts practical support in individual cases and explaining their role as defined by the EU Court. It also provides guidance on the principles concerning recovery of unlawful aid and the rules for the application of Article 108 TFEU. This is complemented by a State Aid manual of procedures which is regularly updated. [6] One of the concerns of the Commission is recovery of illegal State Aid, but the information and statistics available are out of date[7].

Approach to the assessment of training needs

8. The main relevant question in assessing the training needs of national judges is: 'how will a judge learn EU law?' (van Harten, 2012).

9. A precise way of identifying the exact needs for the training of judges in EU competition law is finding and analysing issues of EU competition law enforcement by national courts. This approach is supported by the Best Practice Studies on judicial training provided by EJTN.

10. EJTN provides guidelines and strategies on how to assess judicial training needs.[8] In order to identify problems in the uniform application of the law by courts it is advised to (i) study court decisions; (ii) interview stakeholders to collect requested topics; (iii) compare the current competences with the required competences; and/or (iv) make competence profiles of judges.

[4] *Tender by Commission for Study on judges' training needs in the field of competition law 2014/S 188-330938 with a deadline for proposals on 14 Nov 2014.*
[5] *http://ec.europa.eu/competition/state_aid/scoreboard/index_en.html*
[6] *http://ec.europa.eu/competition/state_aid/studies_reports/studies_reports.html*
[7] *http://ec.europa.eu/competition/state_aid/studies_reports/recovery.html*
[8] *See EJTN website: http://www.ejtn.eu/Resources/Good-judicial-training-practices/*

11. Accordingly, the assessment could be structured as following:

Assessment of training needs	**Content and relevant matters to competition law**
Organisation analysis	*What is a national court overall trying to accomplish?* Derives from the TFEU and Regulation 1/2003: uniform application of the EU competition law.
Person analysis	*Potential participants in training and their level of existing knowledge/ learning style* Judges, assistants of judges and staff of legal research units
Work analysis	*What tasks do judges/ assistants/units perform in the application and enforcement of EU competition law?* *What skill level is required?*
Content analysis	*What knowledge, laws, documents, procedures are used on the job?* EU competition law: primary, secondary, case law, soft law(?), interconnection with national – especially procedural – law
Performance analysis	*Whether they are performing up to the established standard?* *What is a performance gap?*

Table 1: Elements of the assessment of training needs for judges

12. Performance, content and work analysis would seem to be the most appropriate tasks. The overall goal of national and EU competition law is clear and does not require additional organisational analysis, while it would be very difficult to assess individual competence(s) of particular potential participants in EU competition law training schemes.

13. Academic articles, policy documents, case-law overviews and statistics will be used for the assessment.

Issues regarding enforcement of EU competition law within Member States

14. Effective judicial control over decisions of administrative authorities is important for administrative accountability (Lavrijssen & Visser, 2006).

15. EU competition law by national courts is applied when: (i) decisions of national competition authorities are appealed; or (ii) competition law is enforced in private law claims, including damage claims.

16. However, national courts – at least in some Member States – seem to be reluctant to apply EU competition law and there is a clear tendency that national courts do not fulfil their duty to notify the Commission[9] about the judicial review of cases under Art 101 and 102 of the TFEU (Cseres, 2010).

[9] *The Commission admits that the notification mechanism is not effective: Communication from the Commission - Ten Years of Antitrust Enforcement under Regulation 1/2003: Achievements and Future Perspectives (COM(2014) 453, 9.7.2014.*

17. Consequently, key aspects of EU competition law application by national courts are (i) understanding the significance of application of competition law, i.e. rigour of judicial review of administrative decisions of national competition authorities, (ii) knowledge of substantive and (iii) procedural EU competition law and its standards, as well as (iv) managing administrative duties and cooperation with the Commission.

Understanding the significance of application of competition law: challenges in the new Member States

18. Cseres (2010) notes that EU and national competition law in Central and Eastern European countries (hereinafter CEEC) are more in line, while procedural rules diverge:

> *The exceptional influence of the EU on the [Central and Eastern European countries'] competition rules can be demonstrated by the fact that these countries often aligned their national laws even further than they were obliged to. However, in the less visible parts of the law, such as procedural rules, divergence can be substantial with important consequences for overall enforcement outcomes.*[10]

19. She also argues that a background of a planned economy is a significant feature with which to start analysing the application of EU competition law in the Member States of CEEC, as competition law barely existed there:

> *The CEECs had to build competition laws from scratch and more importantly create a competition culture.*[11]

20. Mateus (2010) also emphasises that national courts with 'a younger competition culture' are reluctant to impose large fines for competition law infringements, as well as overruling or dismissing national competition authority decisions on minor procedural rules.

21. Even though some CEECs have legal bases for private enforcement of competition rules, practical implementation of them was noticed only in Lithuania which has practical experience with private enforcement of competition law (Cseres, 2010). Mateus (2010) also states that, so far, despite efforts to identify the main obstacles to increase the rate of private enforcement of competition law and to train judges, there are very few cases in Southern and Eastern Europe.

22. Therefore, it may be a concern for the effective implementation of the new Damages Directive[12], as Regulation 1/2003 and the Directive entrust national courts with a key role in enforcing the Directive (Camilleri, 2013).

23. Cseres lists knowledge of general EU law, concepts of EU competition law and economic analysis, management of expert witnesses and economic evidence as essential problems in CEEC.

[10] *Cseres, 2010, pp. 146*
[11] *Cseres, 2010, pp. 149.*
[12] *Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, available at: ec.europa.eu/competition/antitrust/actionsdamages/ damages_directive_final_en .pdf*

Cooperation between national courts and the Commission

24. National courts have a duty to notify the Commission about judicial review of cases under Art 101 and 102 of the TFEU (Art 15(2) of Regulation 1/2003).

25. The Commission admits that the notification mechanism is not effective enough.[13] It received only around 370 judgments in 2004-2013, mainly from courts in Spain, Germany and France, while 10 Member States have not sent any judgment to the Commission.[14]

26. Furthermore, in 2004-2013 the Commission provided only 26 opinions under Art 15(1) of Regulation 1/2003, which established the right of a national court to request such an opinion regarding EU competition rules. It is a relatively low rate (Mateus, 2010).

27. Regarding Art 15(3) of Regulation 1/2003, within the same period, the Commission used its right to participate as *amicus curiae* in national court proceedings on 13 occasions in 8 Member States: France, Belgium, Slovakia, Austria, the Netherlands, the UK, Ireland and Spain. Issues at stake were: tax deductibility of cartel fines, conditions for access to leniency documents in actions for damages before national civil courts, interpretation of the notions of appreciable effect on trade between Member States, and the application of Art 101 TFEU to vertical agreements.[15]

28. This situation implies that national courts are possibly not aware of their duty, or have no established procedures to notify the Commission or are unfamiliar with the significance of notification. The procedure to request an opinion of the Commission and the 'status' of such an opinion within procedural documents may also be less clear than a reference for a preliminary ruling to the European Court of Justice (a request for an opinion of the Commission is a special measure in competition law, while a reference for preliminary ruling is used by national courts in other cases).

29. Accordingly one conclusion from the literature is that skills of understanding and practical application of Art 15 of the Regulation1/2003 should be developed.

Standard of review

30. The standard of judicial review and economic assessment of competition law cases was established in *Tetra Laval*[16] and numerous other cases[17] and academic assessment of some Member States courts' performance (Essens et al. 2009; Loozen, 2014).

31. However, Cseres (2010) emphasises the lack of data available on judicial appeal cases where EU competition law was applied, as only statistics, but not the

[13] *Communication from the Commission - Ten Years of Antitrust Enforcement under Regulation 1/2003: Achievements and Future Perspectives (COM(2014) 453, 9.7.2014).*
[14] *Commission Staff Working Document SWD (2014) 230 - Ten Years of Antitrust Enforcement under Regulation 1/2003 (SWD(2014) 230/2, 9.7.2014).*
[15] *Commission Staff Working Document SWD (2014) 230 - Ten Years of Antitrust Enforcement under Regulation 1/2003 (SWD(2014) 230/2, 9.7.2014)*
[16] *CJEU, Case C-12/03P Commission v. Tetra Laval BV [2005] ECR I-987*
[17] *Case C-42/84, Remia BV and others v Commission [1985] ECR 2545 and Case C-68/94, Kali und Salz [1998] ECR I-1375. CFI, Case T-201/04, Microsoft v Commission [2007] ECR II-3601, paras 87-89*

content of cases, or rate of references to EU case law are available to the wider public (part of the problem is that information is only available in national data bases and in available only in national languages)[18]. She refers to scepticism regarding a high rate of successfully managed cases by national competition authorities, doubting the standard of judicial review and level of expertise in competition law of national judges, suggesting that the applicable standard needs more research. Her analysis shows the lack of argumentation of the failure of the national competition authority to establish an infringement, unfounded/disproportionate decrease of fines (Slovakia); reluctance to engage in checking the facts and overrule a national competition authority's decision, not referring to EU competition law (Hungary).

32. It is suggested that 'antitrust cases require judges to have special qualifications in economic methodologies or at least the active assistance of the competition authority in court' (Stakheyeva, 2012).

33. Chirita (2012) also points out that the substance of competition cases is not 're-judged' as national courts are not trained in economics:

> *<…> national courts do not have judges trained in economics of competition and mostly courts do not re-judge the substance of the case with regard to the investigation on market power. Certainly, this does not need to be the case for contractual terms or conditions but it is often an excuse to explain that the court cannot assess the respective market power when in fact the bargaining or negotiating power is the source of injustice.*

34. Explaining some case law in Romanian courts, she argues that (i) national courts are not able to establish dominance, and (ii) 'perform only a limited judicial review' due to the lack of skills in economic analysis which:

> *potentially creates the risk that the courts would decide in favour of the administrative authority, being unable to re-check themselves.*

35. Analysis of application of the effect on trade criteria is one of the issues within national courts' competence but for which they have limited expertise to make such an assessment (Mateus, 2010).

36. It is argued that judicial training should focus on judges in specialised courts, not those who never decide on competition case (Mateus, 2010). Moreover, Mateus stresses the need for training on private enforcement of competition law and using expert evidence in courts.

37. *All in all, tools for economic analysis and assessment of facts within the concepts of EU competition law would have an added value to enforcement of EU competition law.*

Analysis of the questions referred for a preliminary ruling since Regulation 1/2003 entered into force

[18] *It should be noted that a pilot field study on the functioning of the national judicial systems for the application of competition law rules commissioned by DG Justice and completed in 2014 contains an analysis of all national case law applying Articles 101 and 102 TFEU but in its final report it refers only to procedural statistics and not to the substance of the case law. See: http://ec.europa.eu/justice/effective-justice/files/final_report_competition_and_eu_28_member_states_factsheets_en.pdf*

38. Analysis of the questions referred for a preliminary ruling since Regulation 1/2003 entered into force shows what sort of EU competition law issues national courts ask to be clarified.

39. Rodger (2014) lists the questions referred to the CJEU as follows:

(i) effective remedies for EU competition law infringements;
(ii) access to leniency documentation by a competition damages litigant;
(iii) aspects of the process of fining undertakings for their involvement in competition law infringements;
(iv) the role of NCAs in post-Regulation 1/2003 EU competition law enforcement;
(v) the application of EU competition law principles by NCAs and the role of "soft law" Commission guidance in that context;
(vi) the scope of the concept of an undertaking in relation to Art 102, and the limitations on the scope of that concept;
(vii) what type of market/commercial behaviour may be deemed abusive and prohibited;
(viii) margin squeeze under Art 102 TFEU;
(ix) abusive behaviour and selectively low pricing;
(x) application of Art 101 TFEU to horizontal agreements or arrangements;
(xi) assessment of "by object" agreements;
(xii) restrictions "by effect";
(xiii) vertical restraints under Art 101 TFEU ;
(xiv) fines, leniency, procedures and due process requirements;
(xv) Vertical Agreements Block Exemption Regulation (2790/1999);
(xvi) compatibility of licensing agreements with EU competition law;
(xvii) Various aspects of State Aid.

40. The review of references for preliminary rulings by national courts demonstrates aspects of EU competition law which national courts felt should be applied and sought CJEU interpretation. Thus, as well as a basic knowledge of past CJEU rulings, updates on the interpretation of CJEU case law on particular issues and the development of jurisprudence might be necessary to provide guidance to national judges. This may be of importance for the new Member States where the application of EU law is evolving slowly (Lazowski, 2010)

The Impact of Directive 2014/104/EU

41. Since the adoption of Directive 2014/104/EU a number of commentaries have been published on the effects of the Directive, particularly relating to the coherence of national remedies and the coherence in calculating damages actions in different Member States. [19]

42. One recent piece of research which addresses a different dimension of the Directive is a Working Paper "Compensation and the Damages Directive" written by Dr Sebastian Peyer at the Centre for Competition Policy at the University of East Anglia. [20] He argues that the Directive fails to address the central or real issues that could potentially motivate people to bring damages actions in the

[19] *See, for example, Dunne, (2015); Dunne, N. (2014); Hjelmeng, (2013) 50.4 CMLRev 1007; A. Andreangeli, "Case Comment. Private Enforcement of the EU competition rules: the Commission wishes to "practice what it preaches" … but can it do so? Comments on Otis" (2014) 39.5 ELRev 717*
[20] *CCP Working Paper 15-10, Policy Brief 15-10, available at: http://competitionpolicy.ac.uk/documents/8158338/8368036/15-10+CCP+Working+Paper/78f92b0e-6f92-4538-bca7-4f45e8de7b2b*

national courts for breach of the competition rules. For Peyer, changes to national rules allocating costs in litigation are a crucial determinant to motivate litigation. He also argues that Member States should extend the remit of the Directive, for example, by allowing opt-out class actions - where a large number of people affected by a breach of the competition rules can sue as a group in order to combine small individual losses.

43. A significant publication is the monograph written by Ioannis Lianos, Peter Davis, and Paolisa Nebbia: *Damages Claims for the Infringement of EU Competition Law*, published by Oxford University Press in August 2015. This is the most up to date and comprehensive analysis of the development and impact of the current EU legal framework on damages claims for the infringement of competition law set within a broader international context of global governance of antitrust. Dr Paolisa Nebbia is employed by the Italian Competition Authority and has recently been seconded to the European Commission DG for Competition.

44. A study of the case notes on national competition law litigation in the leading English language journals (for example: *Journal of European Competition Law and Policy; European Competition Law Review*) and the *Competition Policy International* (CPI) website reveals a greater number of commentaries on national decisions, particularly concerning damages actions.

Further Research

45. The review of the literature in this document concerns general analyses of the role of national courts in the application of EU Competition Law. It would be possible to conduct an in-depth study of developments at the national level by analysing Country Reports in the leading EU Competition Law Journals, e.g. *ECLRev*, over the last 10 years.

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II. State aid law

INTRODUCTION

46. This overview reviews the literature on the way national judges apply EU State aid law. The Overview is structured according to the matters discussed in identified publications. Firstly, the division of competence between the European Commission and national courts and the role of national courts is discussed; secondly, tasks imposed to national courts applying and enforcing State aid rules are discussed; and finally, aspects of the application and enforcement of State aid by national courts of Germany, Austria, the Netherlands, Portugal, Italy and UK are discussed as being the main focus of analysis of national court enforcement of the EU state aid rules.

47. The sources of the Overview include the Chapter on State Aid in Vaughan and Robertson *Law of the European Union* (Szyszczak 2015), Articles in academic journals using data bases of Westlaw UK and Heinonline.org.. Extended library research has also been undertaken surveying: *European State Aid Law Quarterly, the European Competition Law Review, Common Market Law Review, and European Law Review* since 2010. This date was chosen because Nebbia (2011) provided a useful and comprehensive overview of the literature up to this date.

48. It has to be noted that publications discuss and answer the question how national courts *should* apply and enforce State air rules rather than *how* national courts *are* applying and enforcing those rules. The studies focus on a general analysis of the CJEU case-law relevant to Articles 107-108 TFEU and the soft/hard law documents on State aid issued by the European Commission. There are no integral studies of the situation at national level, to provide the answer to the question on how national courts apply and enforce State aid law. This would require a broader country-by-country and case-by-case research exercise.

RELEVANT DOCUMENTS OF THE EUROPEAN COMMISSION

49. Authors quote and rely heavily on European Commission documents.

50. In 2009 the European Commission issued a Notice on the Enforcement of State Aid Law by National Courts[21] which sets out available remedies in the case of infringement of state aid rules and provides mechanisms for national courts' cooperation with the European Commission (Nebbia, 2011). Earlier, in 2010 the European Commission prepared a Handbook on Enforcement of EU State Aid Law by National Courts.[22] A further relevant document is a Recovery Notice[23] providing guidelines in cases where the European Commission adopts a Decision to recover unlawful aid.

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[21] *Commission Notice on the Enforcement of State Aid Law by National Courts (2009/C 85/01) (European Commission) 2009/C 85/01, [2009] OJ C 85/1.*

[22] *Commission, Enforcement of EU State aid law by national courts: The Enforcement Notice and other relevant materials, Handbook, 2010, Brussels, available at: < http://ec.europa.eu/competition/publications/state_aid/national_courts_booklet_en.pdf >*

[23] *Commission Notice Towards an Effective Implementation of Commission Decisions Ordering Member States to Recover Unlawful and Incompatible Aid (2007/C 272/05) (European Commission), 2007/C 272/0, [2007] OJ C 272/4.*

OVERVIEW OF THE RELEVANT LITERATURE

51. The review of the literature shows that authors rely heavily on the case law of the European Courts when defining the role and tasks of national courts in the application and enforcement of the EU state aid rules. The studies are of a general nature, providing an explanation of CJEU case-law, EU law provisions and deriving general obligations for national courts applying and enforcing State aid rules.

52. The analysis of the application of the state aid rules by particular national courts is fragmented and not easy to summarize or to analyse. Only a few relevant cases (or aspects of the cases) with various and different aspects of EU state aid law from the German, Austrian, Dutch, UK, Italian, Portuguese courts are reviewed in more detailed assessing the application of the EU case-law. Authors are more focused on the general analysis of obligations imposed by CJEU but not on how national courts apply the State aid rules, or the problems that they face.

53. Additional broader studies on a country-by-country and case-by-case basis would be necessary to provide a an overview of how national courts apply and enforce State aid rules in practice, as the current literature focuses mainly on how national courts *should* apply those rules.

A. The Division of Competences between the European Commission and national courts and the role of national courts

54. The literature emphasises the distinct roles of the European Commission and the national courts in the enforcement and application of the state aid rules. It identifies the boundaries national courts should not exceed when applying state aid rules and explains where and when national courts are obliged and expected to act.

55. The role of national courts is extensively analysed by Brandtner et al. (2010), Nebbia (2011), Knade-Plaskacz (2013) and Pisapia (2014). Brandtner et al. (2010) point out that the roles of the European Commission and national courts are clearly distinct. National courts have no competence to conduct compatibility analysis under Art 107(2) and (3) TFEU, but are obliged to ensure individual rights violated by infringement of the stand-still obligation (Art 108(3) TFEU). Thus, Brandtner et al. derive national courts competence from the 'procedural unlawfulness' of state aid law. Knade-Plaskacz (2013) also has a similar approach.

56. In addition, Nebbia (2011) notes that national courts should not decide 'substantive matters concerning the compatibility of the state aid with the common market'. While Brandtner et al. (2010) emphasize that if the European Commission has ordered a Member State to recover unlawful state aid, the national court shall not question the nature of the aid or its compatibility. Lenaerts (2011) also stresses that the European Commission has an 'exclusive competence to rule on the compatibility of state aid with the common market'.

57. Pisapia (2014) discusses the role of national judges in the light of the Notice of 2009 and shows how they enforce EU state aid law. She stresses the availability of tools for national judges to enforce state aid law and that they cannot check the compatibility of the state aid against EU law as it is a function of the

European Commission. Pisapia analyses the EU case-law to illustrate that the European Commission's 'control of legitimacy' and national courts' 'formal control' are complementary.[24] She concludes that national judges have an important role as they intervene 'to reduce the anti-competitive effect of illegal supports supplied', and are entitled to interrupt the aid's allocation, to recover it or order compensation.

58. Graells (2014) argues that in the enforcement of state aid rules the national courts' role is to focus on 'preventing the payment of unlawful aid, imposing interim measures against unlawful aid, <…> granting relief for the damages suffered by competitors and other third parties', the recovery of unlawful aid and 'recovery of illegality interests'. Brandtner et al. (2010) assign recovery cases to the role of national courts.

59. Thus, national courts have a role in public and private enforcement of state aid law. Public enforcement of state aid refers to recovery of '(non-notified) unlawful and incompatible' aid, what covers the review of the legality of national decisions or enforcement of a European Commission Decision, while the private enforcement role ties in with the application of block exemption regulations (Cleynenbreugel, 2014).

60. The literature indicates exact situations when national courts perform their role in the enforcement of state aid rules. Brandtner et al. (2010), Nebbia (2011), Knade-Plaskacz (2013) and Pisapia (2014) provide that national courts decide on state aid cases when: (i) a competitor of the undertaking granted a state aid seeks for annulment of the aid granted, (ii) a taxpayer seeks to avoid tax payment deriving from the state aid, (iii) other claimants apply for annulment of national state aid after the European Commission's Decision to recover state aid or (iv) damage claims from national institutions failing to implement a Commission Decision. The first two situations cover a stand-still obligation (prior to the Commission's Decision) and the last two situations fall under the category of the post Commission's Decision to recover the aid.

61. None of the authors doubt the significant role of the national courts in enforcing state aid rules. National courts have distinct roles from the European Commission but both complement the role of each other. The main roles of national courts are to protect individual rights and prevent aid from being implemented before the final Commission Decision (standstill obligation), recover illegal/incompatible aid and uphold damage claims in both infringement of the standstill obligation or other cases.

B. *Tasks of national courts enforcing and applying the State aid rules*

62. Within their role in the enforcement and application of the state aid rules national courts are assigned to certain tasks. The EU law and case-law of the EU courts establish obligations national courts have to perform when enforcing and applying the state aid law. It has to be noted that Köhler (2012) is of the opinion that EU case-law provides a sufficient guidance to national courts on how state aid law should be applied and enforced.

63. The literature tends to divide certain tasks into two categories: firstly, tasks when there is a Decision of the Commission on compatibility of the aid and, secondly,

[24] *Complementarity of the competences of the European Commission and national courts are also addressed by Negenman (2011), Köhler (2012), and Metselaar (2014).*

when there is no decision on compatibility. Also, a lot of attention is given to analyse the legal issues of national procedural autonomy and its interaction with the role entrusted to national courts providing the obligations regarding the remedies and measures national courts shall take when enforcing and applying the State aid rules. Furthermore, analysis of the issues regarding damage claims forms a separate aspect in the literature. Finally, the mechanism of cooperation between the European Commission and national courts is regularly mentioned.

i. Division of national courts' tasks in the case of existence and non-existence of a Decision on compatibility by the European Commission

64. The tasks of national courts in general are analysed by Köhler (2012). After an analysis of the CJEU case-law, he argues that national courts have to protect individual rights, to preserve these rights until the final Decision of the European Commission, to interfere regarding the validity of the aid measure and recovery of the aid, to uphold damage compensation claims, to apply interim measures

65. Authors tend to determine the general tasks of national courts into two situations: when a Decision on compatibility of the aid is adopted by the European Commission and when there is no such Decision. Köhler (2012) discusses national courts' tasks dividing the national case proceedings before and after the European Commission has taken a Decision and illustrates the application of EU state aid law from German and Austrian cases. The division of national remedies where there is a Decision on compatibility and where is no such Decision regarding the standstill obligation is also made by Vajda & Stuart, (2010).

66. In addition, Nebbia (2011) and Hindmarch & Brookes (2015) analyse legal issues and principles national courts have to deal with in different situations.

67. The study of Nebbia (2011) groups legal issues national courts have to address into two categories. Firstly, the issues relevant to the stand-still obligation: (i) determination of the breach, including interpreting if the measure is a state aid within the Art 107 TFEU, if the aid was granted in breach of Art 108 TFEU, and if the Block Exemption Regulation is applicable. (ii) application of available remedies in case of infringement of a stand-still obligation, including interim orders, repayment orders, placement of the funds on a blocked account order, and other measures provided by the Notice of 2009.

68. While Hindmarch & Brookes (2015) discuss the principles national courts shall apply:

> *If there is no European Commission decision on the lawfulness of state aid, the National Court must determine whether the measure constitutes State aid within the meaning of art.107(1) by reference to art.108(3). While National Courts are not permitted to authorise state aid, they are obliged to decide whether a measure qualifies as state aid and order recovery of aid that was granted without Commission approval.*

69. Secondly, the study of Nebbia indicates the legal issues relevant to post-Commission Decisions: (iii) the enforcement of such Decisions, including action for the annulment of a national recovery order, damage actions, authority actions

to force an unwilling beneficiary to refund the aid (Art 14 Regulation 659/99), and application of the Recovery Notice[25].

70. The literature analyses the certain tasks of the national courts according to the specific circumstances, namely looking whether there is a compatibility Decision of the European Commission or not, or whether the legal issue is related to the standstill obligation or enforcement of the final Decision of the Commission.

ii. Issues of national procedural autonomy and measures/remedies of national courts

71. The research shows that significant attention is given to analysing the legal issues of national procedural autonomy and its interaction with the role entrusted to national courts. The literature provides an analysis of the obligations regarding the remedies and measures national courts shall take when enforcing and applying the state aid rules.

72. Köhler (2012), Pisapia (2014) and Cleynenbreugel (2014) discuss national procedural autonomy indicating that EU principles of equivalence and of effectiveness limit it. Lenaerts (2011) provides a more detailed analysis of the national remedies in the enforcement of the state aid rules in the light of those principles. In addition, Cleynenbreugel (2014) analyses the relevant obligations that the CJEU has laid down to national courts in its jurisprudence:

> *<…> national judges should be able to take all measures to initiate recovery if the aid has been declared incompatible <…>.*
> *A national judge cannot <…> stay proceedings until the Commission or the Court delivered a final judgment on the matter.*[26]
> *<…> [to remove] <…> a national rule on res iudicata which would impede the effective application of EU state aid law.*
> *<…> national judges could no longer rely on national procedural rules that would impede the recovery obligation resulting from a final Commission decision holding the aid to be incompatible with EU law.*
> *<…> the national court is obliged as a matter of EU law 'to adopt all the necessary measures with a view to drawing the appropriate conclusions from an infringement of the obligation to suspend the implementation of that measure'.*

73. Thus, European Courts clearly show the direction of how national courts should solve a dilemma of national procedural autonomy and enforcement/ application of the state aid rules.

74. The measures national courts could adopt are as follows: suspension of the implementation of the measure in question, ordering of the recovery of payments made or ordering provisional measures to protect interest of parties, as well as effectiveness of the future Decision of the Commission (Cleynenbreugel, 2014).

75. Based on an analysis of the case-law of the CJEU, Knade-Plaskacz (2013) also discussed the measures national courts should take. Moreover, she quotes Köhler (2013) and notes that due to ensuring that incompatible aid would not be implemented, any civil contracts and transactions linked to the granting of state

[25] *Commission Notice Towards an Effective Implementation of Commission Decisions Ordering Member States to Recover Unlawful and Incompatible Aid (2007/C 272/05) (European Commission), 2007/C 272/0, [2007] OJ C 272/4.*
[26] *The German Federal High Court made a similar ruling on this issue. The case and its influence is discussed by Martin-Ehlers (2014).*

aid which is unlawful shall be considered null and void, unless in particular circumstances there are a more effective measures than cancellation of relevant civil acts. Also included in the competence is the ability to take all necessary measures 'to remedy the consequences of the unlawfulness of an aid measure'.

76. Knade-Plaskacz (2013) provides an overview of national courts' obligations in the case of recovery of illegal and incompatible state aid. The national court has to ensure effective recovery, i.e. to order repayment of such aid. She explains that 'EU law does not impose an obligation of full recovery of the unlawful aid', thus, if a Member State implemented state aid before the final Decision of the Commission (even if a positive one), i.e. Art 108(3) TFEU was infringed, consequently the national court may also order the beneficiary to pay interest in respect of the period of unlawfulness, Grafunder & Laskey (2011) indicated the same aspect, or to uphold claims for compensation for damage such illegal aid caused. Moreover, the national court may have to decide in cases where the beneficiary of illegal and/or incompatible aid claims the existence of 'exceptional circumstances' which make the order to repay the aid inappropriate. Then it is suggested that the national court would cooperate closely with the European Commission and consider referring for a preliminary ruling to the CJEU while determining and interpreting those circumstances.

77. In addition, Vajda & Stuart (2010) examined 'the role of the national court in granting remedies for breach of the standstill provision in Article 108(3) TFEU' in the light of *CEFL* judgments providing that in EU law a breach of a standstill obligation in case of compatible aid does not impose a duty on the national court to order repayment. But the standstill obligation may require the national court to take interim measures, for instance, to order an interim recovery when national proceedings run in parallel to an investigation of the European Commission or to issue an interim order 'preventing the illegal disbursement' where is a risk that payment may be made before the final court decision (Knade-Plaskacz, 2013) or uphold damage claims (Vajda & Stuart, 2010)

78. These issues and measures are discussed by Brandtner et al. (2010) as well. While Hindmarch & Brookes (2015) list remedies available before national courts in the case of unlawful state aid:

> *(a) preventing the payment of unlawful aid; (b) recovery of unlawful aid (regardless of compatibility); (c) recovery of illegality interest; (d) damages for competitors and other third parties; and (e) interim measures against unlawful aid.*

79. It is argued that in the case of SGEI private enforcement of the state aid rules is limited: a national court can apply the *Altmark* conditions to determine the involvement of the state aid and to test if the conditions of the block exemption are met, whereas the competence of the European Commission steps in if one of the conditions are not met and there is a need to assess whether the aid is covered by an exemption (Sauter, 2012).

80. All in all, based on analysis of the EU principles of equivalence and effectiveness and established case-law of the CJEU the authors provide that national courts have an obligation to take necessary measures in particular situations when enforcing and applying state aid rules. Studies also provide a summary of the measures and remedies national courts could or should undertake.

iii. National courts in cases of compensation for damage caused by unlawful aid

81. In the literature, analysis of the issues regarding the damage claims forms a separate aspect of the enforcement of the State aid by national courts.

82. Pisapia (2014) points out that in the damage cases the national court will have:

> *<..> to verify the existence of the following assumptions: (a). The violation of Article 108 (3) TFUE; (b). The damage certainty; (c). The link of causality between State violation and the damage suffered.*

83. Honore & Jensen (2011) and Knade-Plaskacz (2013) group possible damage claims within different national legal systems as following:

> *- damages claims lodged by a competitor of the beneficiary against the Member State,*
> *- damages claims lodged by a competitor of the beneficiary against the aid beneficiary,*
> *- damages claims lodged by the aid beneficiary against the Member State,*
> *- other claims for damages.*

84. However, after their overview of national studies carried out for the European Commission in both 2006 and 2009, Honore & Jensen (2011) pointed out that there was no case where a competitor successfully litigated and received compensation for damages caused by unlawful state aid. They believe that the main challenge is to prove causation and/ or exact loss suffered. The updated statistics have not been discussed by other authors [yet].

85. In addition, Lang (2014) suggests that a national court hearing a claim by a competitor for compensation from the State should approach the European Commission to gain all available information in its possession, saying that under Article 4(3) TEU the Commission has an obligation to provide it. He also argues that if information is 'potentially available to national courts, it should be made available to beneficiaries of State aid and their competitors' as well.

86. The literature discusses what the groups of possible damage claims are, what assumptions national courts will have to verify in damage cases within the infringement of the state aid rules, and indicates issues parties face, namely proving causation, exact loss suffered and access to relevant information.

iv. Cooperation between the European Commission and the national courts

87. The issue of cooperation between the European Commission and the national courts is discussed in the studies of Brandtner et al. (2010), Nebbia (2011), and Knade-Plaskacz (2013). A national court can request information in the possession of the European Commission, or request an opinion of the European Commission regarding the application of state aid rules, while the European Commission can also submit its written observations to national courts (Dilkova,

2014). This cooperation is established in the Notice 2009[27] and in Art 23a of the Regulation 734/2013.[28]

88. Cleynenbreugel (2014) also discusses the procedure which should be followed by national courts in the case of questioning the European Commission's Decision on the compatibility or incompatibility of state aid with EU law. He explains that as national courts cannot rule on this question, the matter should be referred to the CJEU, whereas addressees of the Decision should seek annulment of the Decision under the relevant provisions of the Treaty.

C. Simultaneous aspects of the application and enforcement of State aid by national courts discussed in articles: Germany, Austria, the Netherlands, Portugal, Italy and UK

89. Research on the application and enforcement of state aid law focuses on analysis of general obligations to national courts imposed by EU law or/and case law. There are no detailed studies assessing how a national court of a Member State applies particular concepts of state aid law. Certain aspects of the application of state aid rules by national courts were identified; however, the knowledge is fragmented and would require further specified country-by-country or case-by-case studies.

90. Grafunder & Laskey (2011) explain that recent German Federal Court of Justice rulings suggest that national courts have to oblige an entity to recover [return] state aid which was granted without the authorization of the European Commission, i.e. unauthorized state aid is considered unlawful. Furthermore, the German Federal Court stresses the rights of competitors in case of infringement of a standstill obligation and provides that national law has:

> *the necessary legal basis to claim disclosure of information, recovery of aid, omission of (further) benefits and, as the case may be, damages.*

91. The German Federal Court of Justice implies an obligation on civil courts to comply with EU law and the principle of effectiveness requires national courts not to impede EU law granted rights (Grafunder & Laskey 2011).

92. Köhler (2012) analyses further the rulings of German Federal Court and Austrian Supreme Court and suggests that jurisprudence of the CJEU provides sufficient guidance to Member States on the procedural aspects of private enforcement of EU state aid law.

93. Metselaar (2014) analyses who can invoke state aid law before a national court taking the example of the Netherlands. She suggests that the main question is whose interests the standstill obligation aims to protect, whereas to answer to it refers to a party which can seek protection of the violation of the standstill obligation. Illustrating using Dutch case law, she concludes that various types of parties commence state aid proceedings (not only beneficiaries or competitors), moreover, there is no unanimous interpretation of the concept of competitor by the Dutch courts. However, Hindmarch & Brookes (2015) say that *any* party affected by the breach of standstill obligation, i.e. the aid, can bring action before a national court.

[27] *Commission Notice on the enforcement of State aid law by national courts [2009] OJ C85/1.*
[28] *Council Regulation (EU) No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty Text with EEA relevance, OJ L 204, 31.7.2013.*

94. The case-law of Portuguese courts applying state aid in cases of compensation for public services, participation in public tenders of undertakings and entities that benefited from State compensation is analysed by Romdo (2011).

95. The study of Pisapia (2014) is illustrated by the cases in Italian courts. She divided her study in to the following issues: (i) the direct effect in state aids matters; (ii) the recovery of illegal aids; (iii) the execution of a European Commission Decision and the principle of national procedural autonomy; (iv) the invalidity of the national act providing the aid; (v) the suspension of the illegal payments; (vi) the action for damages against the state; (vii) the action for damages against the beneficiary of the aid; and (viii) the class actions in the Italian legal order.

96. Hindmarch & Brookes (2015) examine the UK judgment *Sky Blue Sports & Leisure* where the national court considered the market economy investor principle and whether a public authority's actions constituted unlawful state aid.

97. In general, the Articles cover the general obligations on national courts established by the CJEU case law and particular national court proceedings are analysed to illustrate the enforcement and application of the state aid by national courts.

98. Further research is necessary to identify Articles assessing other particular cases by particular national courts applying and enforcing state aid rules, for eg by case notes in the leading specialist journals such as European State Aid Law, specialist journals on EU competition law and general journals on EU law..

99. Further analysis of the literature could break down the authorship of Articles. This Briefing Note has not used the term "academic literature" because a lot of writing in EU competition law is by practitioners, judges and European Commission officials.

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Annex 2.3. Training activities for judges at national level on EU competition law and State aid rules (2003-2015)

KEY

Mandatory:
Indicates whether continuous training for judges is mandatory and cross-references country profile if specific conditions apply.

National judicial training institute:
Entity responsible for the training of judges at national level

Subject matter:
Specific subject matter if known (most training sessions are entitled simply "EU Competition Law for National Judges" or similar):

A: Public enforcement
B: Private enforcement
C: State aid
D: Case law
E: Economics

Cross-border:
Indicates if target audience was from more than one Member State.

Funding:
EU: indicates if the "Training of Judges" programme was used to fund the activity.
Nat. only: indicates if the activity was funded solely by sources at national level.

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
Austria	No	Federal Ministry of Justice	ERA/Federal Ministry of Justice	2012		X					X	
			ERA/Federal Ministry of Justice	2003	X	X					X	
			Austrian Academy of Sciences	2004							X	
			EIF	2004							X	
			Cartel Court	annually								X
Belgium	No[29]	Institute of Judicial Training	Université Catholique de Louvain-Centre Européen de la PME (CEPME)	2005-06		X					X	
			Hoge Raad voor Justitie	2004-05							X	

[29] *Training is compulsory in specific circumstances.*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
			Hoge Raad voor Justitie	2003							X	
Bulgaria	No[30]	NIJ	ERA/NIJ	2009-10	X	X					X	
			FIEP	2013-14							X	
			FIEP	2010-12							X	
			FIEP	2008-09							X	
			Law and Internet Foundation (Sofia)	2011-13							X	
			Hungarian Academy of Justice	2005-06						X	X	
Croatia	Yes[31]	Judicial Academy	ERA	2011	X	X					X	
Cyprus	No	The Supreme Court	European Institute of Cyprus	2007							X	
Czech Republic	No	Judicial Academy	Judicial Academy	2012-15						X	X	
			Judicial Academy	2013		X			X			X
			ERA/Judicial Academy	2008	X	X				X	X	
			ERA/Judicial Academy	2006	X	X				X	X	
			Supreme Administrative Court	2013	X	X						
			Europlatform	2006							X	
Denmark	No	Danish Court Administration										
Estonia	No[32]	Supreme Court, Judicial Training	Judicial Training Department	2014								X
			Judicial Training Department	2011								X

[30] *Under certain conditions "Yes".*
[31] *Twice a year at the Judicial Academy.*
[32] *Judges are required to develop skills and knowledge.*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
		Council										
Finland	No[33]	Ministry of Justice	Ministry of Justice	2013						X	X	
			Ministry of Justice	2011						X	X	
			Ministry of Justice	2010			X			X	X	
			Ministry of Justice	2008						X	X	
			Ministry of Justice	2003						X	X	
France	Yes (civil judges) [34]	National School for the Judiciary (civil judges)	National School for the Judiciary	biannually								X
	No (admin. Judges) [35]	Centre de formation de la jurisdiction administrative (admin. judges)	Paris Court of Appeal/Court of Cassation/Comp. Authority	regularly								X
			Court of Cassation	2006					X		X	
Germany	No	Federal Ministry of Justice and Consumer Protection German Judicial Academy (DRA) Regional Ministries of Justice and Judicial Academies	DRA	2015								X
			Niedersachsen (Lower Saxony) Ministry of Justice	2013								X
			Sachsen (Saxony) Ministry of Justice	regularly								X
			ERA/DRA	2013						X	X	
			ERA	2011			X				X	
			ERA/ German Federal Ministry of Justice	2007						X	X	
			ERA/ Ministry of Justice of Nordrhein-Westfalen	2002						X	X	

[33] *Under specific circumstances "Yes".*
[34] *5 days per year (not EU Law).*
[35] *At Administrative Judiciary: target of 3 compulsory days per year.*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
			Péter Pázmány University (HU)/Radboud University (NL)/University of Münster	2014						X	X	
			Leuphana University of Lüneburg	2011-13							X	
			Centre of European Law at the University of Passau	2005-07							X	
			Bundeskartellamt	annually	X							X
			Düsseldorf Institute for Competition Economics	annually					X			X
			Studienvereinigung Kartellrecht	regularly								X
Greece	No	National School of Judges	EPLO	2014						X	X	
			Athens University	2010-12		X	X				X	
Hungary	Yes[36]	Judicial Academy	Judicial Academy ("Office of Nat. Coun. of Justice")	2005						X	X	
			Hungarian Competition Authority (GVH)	annually						X	X	X
			Pázmány Péter Catholic University	2009							X	
Ireland	No[37]	Committee for Judicial Studies	ICEL	2003							X	
			University College Dublin (UCD)	2012							X	
Italy	Yes	Scuola Superiore della Magistratura (civil judges)	SSM/Court of Appeal of Milan	2015			X					X
			SSM/Court of Appeal of Rome/Supreme Court	2014	X	X						X

[36] *Precondition for promotion.*
[37] *Appointment to specific offices requires a written undertaking to complete the appropriate courses of training and/or education.*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
		USGA (admin. Judges)	CSM	2004							X	
			CSM	2002							X	
			USGA	2015								X
			SSM/Italian Competition Authority/Council of State	recently					X		X	
			French and Italian Comp. Authorities/SSM/Council of State	2014-15						X	X	
			Alma Mater Studiorum – University of Bologna/ESAFS	2012							X	
			SSPA	2011							X	
			Università degli Studi del Molise	2010							X	
			University of Brescia	2010							X	
			CODACONS 'EU Network to Promote Training for Judges'	2009-10							X	
			Università degli Studi di Roma Tre	2009							X	
			Università degli Studi di Padova	2009							X	
			Università degli Studi di Trento	2007							X	
			Instituto Regionale di Studi Giuridici del Lazio	2007							X	
			Università degli Studi di Siena	2004							X	
			Italian Antitrust Association	regularly								X
			Luiss University, Rome	regularly								X
			University of Trento	biannually								X

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
Latvia	No[38]	Latvian Judicial Training Centre (LJTC)	Latvian Judicial Training Centre (LJTC)	2010				X		X	X	
			LJTC/Riga Graduate School of Law	2012-13			X					X
Lithuania	Yes[39]	Training Centre of the National Courts Administration	Lithuanian Association of Judges	2010							X	
			Public Institution College of Social Sciences	2008				X			X	
Luxembourg	No		Ministry of Justice									
Malta	No	Judicial Studies Committee	JSC/ Malta Competition and Consumer Affairs Authority	2012						X	X	
			JSC/ Malta Europe Steering & Action Committee	2009							X	
			JSC/ European Commission Representation in Malta	2007							X	
			JSC/ Nadur Local Council	2006						X	X	
Netherlands	No[40]	Judicial Studies Centre (SSR)	University of Leiden	2011-13			X				X	
			Universiteit Utrecht	2010-12							X	
Poland	No	National School of Judiciary and Public Prosecution (NSJPP/ KSSIP)	NSJPP	2014-17							X	
			NSJPP/ERA	2014							X	
			NSJPP	2011							X	
			NSJPP/ERA	2010			X				X	
			NSJPP/ERA	2009							X	
			Fundacja Prawo Europejskie	2006							X	

[38] *Duty to continuously enhance knowledge.*
[39] *At least every five years and under special conditions.*
[40] *Recommendation of 30 hours per year.*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
			(European Law Foundation)									
Portugal	No	Centre of Judicial Studies (CEJ)	CEJ/EJTN	2015						X	X	
			CEJ/*Autoridade da Concorrência* (AdC)	2010							X	
			CEJ/ERA	2009							X	
			CEJ/AdC	2007							X	
			CEJ/AdC	2006							X	
			CEJ/ERA	2006						X	X	
			European Institute, Law Faculty, University of Lisbon	2013							X	
				2012							X	
				2010							X	
				2008							X	
			Association of Portuguese Competition Lawyers	2014						X		X
				2013						X		X
				2011						X		X
				2010						X		X
			Faculty of Law, Portuguese Catholic University of Oporto	2015							X	
				2014							X	
				2013							X	
			DECO – Portuguese Association for Consumer Protection	2010 2007 2006 2005 2004 2003							X	

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
Romania	Yes[41]	National Institute of Magistracy (NIM)	National Institute of Magistracy (NIM)	annually								X
			NIM/ERA	2015						X	X	
			NIM/ERA	2014						X	X	
			NIM/ERA	2010-12							X	
			NIM/ERA	2009-10							X	
			NIM/ERA	2006							X	
			NIM/ERA	2005						X	X	
			The Freedom House Inc. Foundation/partners	2013							X	
			The Freedom House Inc. Foundation	2011							X	
			Transparency International	2010							X	
Slovakia	No[42]	Judicial Academy (JASR)	Judicial Academy of the Slovak Republic (JASR)	annually								X
			Judicial Academy of the Czech Republic	2011-13					X	X	X	
Slovenia	No[43]	Judicial Training Centre (JTC)	Ljubljana University	2012-14							X	
			Ljubljana University	2011-14						X	X	
			Ljubljana University	2007							X	
			The Supreme Court of the Republic of Slovenia/ERA	2004							X	

[41] *Judges and prosecutors are legally obliged to attend continuous professional training courses at least once every three years; there are more conditions defining when training is obligatory.*
[42] *According to Art. 30, par. 7 of Act No. 358/2000 Coll., judges are obliged to extend their knowledge and make use of training opportunities available to them.*
[43] *Under certain circumstances "Yes".*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
Spain	No[44]	Judicial School of the General Council of the Judiciary (EJ-CGPJ)	EJ-CGPJ/ERA	2015							X	
			EJ-CGPJ	2013	X	X					X	
			EJ-CGPJ/ERA	2009							X	
			EJ-CGPJ/ERA	2007							X	
			EJ-CGPJ/ERA	2005							X	
			EJ-CGPJ	2015								X
			EJ-CGPJ	2014								X
			EJ-CGPJ	2012								X
			University of Valencia	2014							X	
			Fundación Asmoz de Eusko Ikaskuntza	2007							X	
			Fundación de la Comunidad Valenciana	2005							X	
Sweden	No	Courts of Sweden Judicial Training Academy	National Courts Administration	2004							X	
			ERA	2010							X	
			ERA	2006							X	
United Kingdom	No[45]	England & Wales: Judicial College (formerly JSB) Scotland: Judicial Institute (formerly Judicial Studies Committee)	Competition Appeal Tribunal	regularly								X
			ERA	2014							X	
			Oxera Consulting Ltd	2013					X		X	
			ERA	2012		X					X	
			University of the West of England	2011							X	
			University of Oxford	2008							X	
			University of Oxford	2007							X	
			University of the West of	2007							X	

[44] *Continuous judicial training is only compulsory in Spain where a judge changes post to another jurisdiction.*
[45] *In specific circumstances "Yes".*

Member State	Mandatory?	National judicial training institute	Activity									
			Provider	Year	Subject matter					Cross-border?	Funding	
					A	B	C	D	E		EU	Nat. only
United Kingdom (cont.)		Northern Ireland: Judicial Studies Board (JSB) Competition Appeal Tribunal (CAT)	England									
			University of Oxford	2006							X	
			AECLJ	2006						X	X	
			ERA	2005-06							X	
			University of Oxford	2005							X	
			BIICL	2004							X	
			AECLJ	2004						X	X	
			AECLJ	2003						X	X	
			AECLJ	2002						X	X	
			University College London	2010-12							X	
			Law Society/ERA	2011							X	
			JSB (Judicial College)/ERA	2005							X	

Annex 2.4. Survey of judges on their training needs in the field of EU competition law

Geographical representativeness

Response rate to online survey of judges at 5 October 2015

Country	Total number of judges[46]	Share of European judicial population	Survey responses on 31.8.15	Share of survey responses	Correlation (1=proportionate to jud. pop.)
Austria	1.547	1,89%	14	1,66%	0,88
Belgium	1.598	1,95%	30	3,56%	1,82
Bulgaria	2.239	2,73%	20	2,37%	0,87
Croatia	1.932	2,36%	15	1,78%	0,75
Cyprus	103	0,13%	4	0,47%	3,77
Czech Rep.	3.055	3,73%	12	1,42%	0,38
Denmark	372	0,45%	55	6,52%	14,36
Estonia	228	0,28%	7	0,83%	2,98
Finland	981	1,20%	15	1,78%	1,49
France	7.032	8,59%	15	1,78%	0,21
Germany	19.832	24,22%	137	16,25%	0,67
Greece	2.574	3,14%	24	2,85%	0,91
Hungary	2.767	3,38%	30	3,56%	1,05
Ireland	144	0,18%	2	0,24%	1,35
Italy	6.347	7,75%	73	8,66%	1,12
Latvia	439	0,54%	5	0,59%	1,11
Lithuania	768	0,94%	17	2,02%	2,15
Lux'bourg	212	0,26%	7	0,83%	3,21
Malta	40	0,05%	2	0,24%	4,86
Netherlands	2.410	2,94%	28	3,32%	1,13
Poland	10.114	12,35%	99	11,74%	0,95
Portugal	2.009	2,45%	21	2,49%	1,02
Romania	4.310	5,26%	41	4,86%	0,92
Slovakia	1.307	1,60%	3	0,36%	0,22
Slovenia	970	1,18%	43	5,10%	4,31
Spain	5.155	6,30%	110	13,05%	2,07
Sweden	1.123	1,37%	5	0,59%	0,43
UK	2.271	2,77%	8	0,95%	0,34
TOTAL	81.879		843		

Source: CEPEJ, ERA

[46] *Total number of professional judges or full-time equivalent, 2012, CEPEJ (2014)*

Assessment of data quality

In total, 1,220 users opened the online survey but only 711 respondents replied to all questions and made it to the very end. A further 132 replied to some – indeed most – of the questions but broke off before the end. It should be noted that individual users had the option to interrupt and return to the survey, so those who broke off can be assumed not to have returned and thus not to have duplicated earlier responses. The research team decided to include these partial responses in its evaluation because the profile of those who broke off did not differ from those who completed the entire survey, so the representativeness of the results would not be affected but the data pool would be deeper. Ecorys applied the same approach to the results of its survey of former participants in training funded by the Training for Judges Programme. As a result, the total number of valid responses to the needs analysis survey is 843.

98% of these 843 responses correspond to the categories that the research team had foreseen in terms of position ("judge", "lay judge" or "court staff"). Of the 2% who ticked "other", most are judges who did not want to define themselves as such due to a particularity of their position (e.g. "deputy judge" or "president of court"). For this reason, the "others" have been included in the survey results. It should be noted that the "lay judges" who responded are mostly "juges consulaires" from Belgium and France.

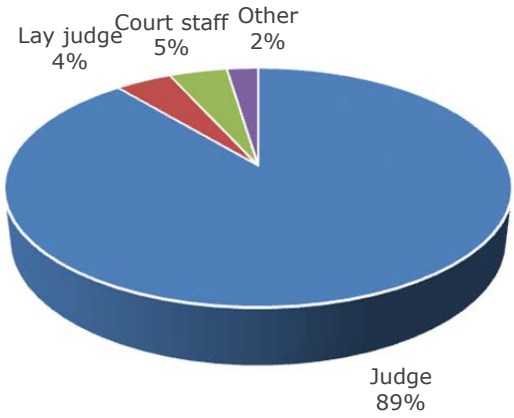
The research team decided to exclude the responses to two questions due to the risk that variations in translation across the six language versions may have skewed the result. These referred to whether respondents had a degree and whether they had completed any initial training before becoming a judge. For example, those who responded "no" to the question "Do you have a degree?" mostly replied to the English version of the questionnaire (but were not native English-speakers) and may have misunderstood because the question was too vague. Several respondents to the Spanish version "¿Tiene alguna titulación?" also replied "no", whereas no respondents to the very specific German version "Haben Sie einen Hochschulabschluss?" replied "no".

In question 1.7., a regrettable typing error in the survey gave the age ranges as "Under 30, 30-39, 40-**59**, 50-59, Over 60". The research team nevertheless decided tentatively to include these results on the assumption that the typing error would be apparent to and taken into account by respondents.

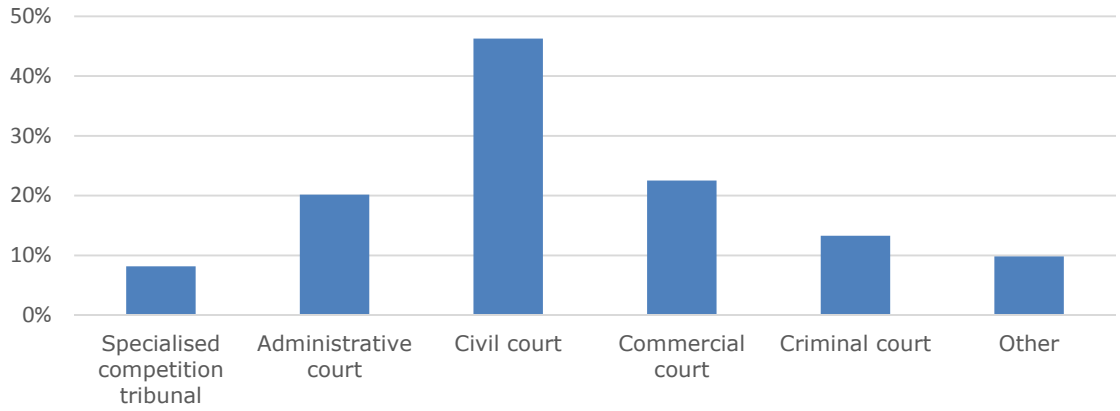
Respondents' profiles

The first section of the survey asked questions about respondents' profiles. On the one hand, this allows the research team to assess the representativeness of the responses. On the other, it can filter all subsequent responses according to these profile criteria.

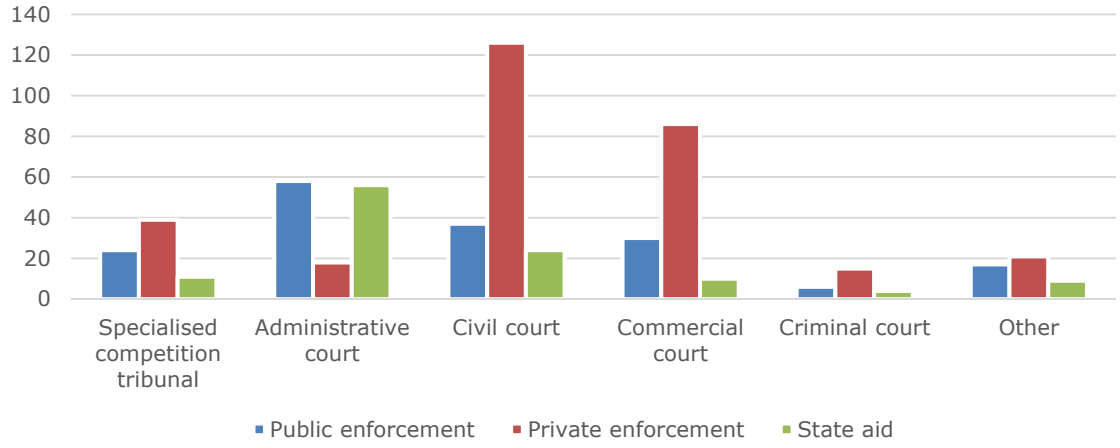
1.2. Respondents' position



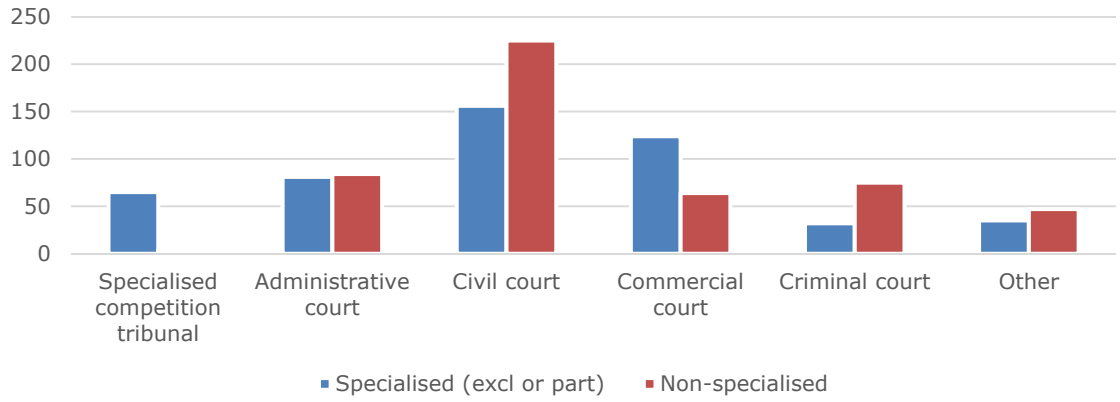
1.4. If applicable in your jurisd., in which type of court do you sit?



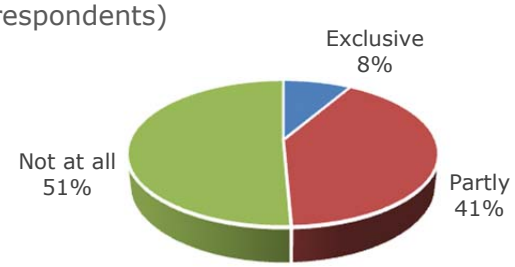
Cross-ref: number of judges dealing with different types of case (3.3(b)) in different types of court (1.4.)?



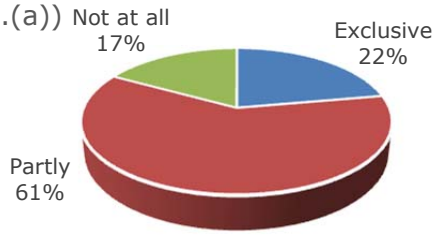
Cross-ref: number of judges in different types of court (1.4.) according to degree of specialisation (1.5.) ?



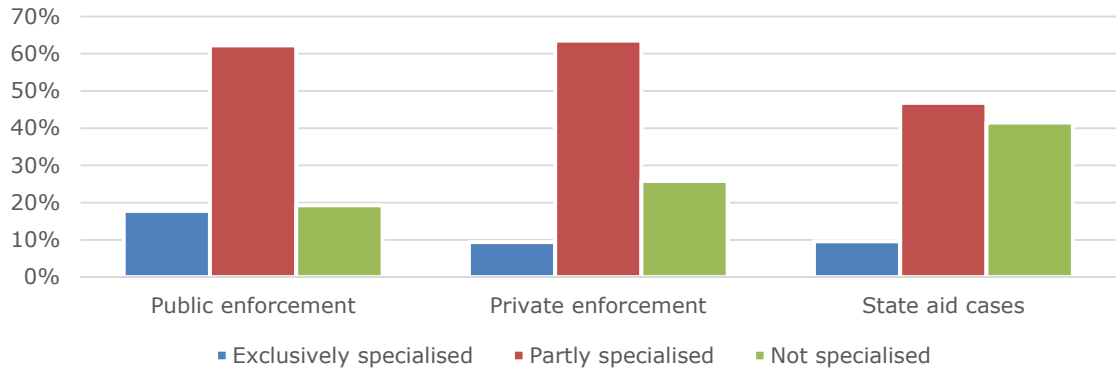
1.5. Degree of specialisation in competition law (all respondents)



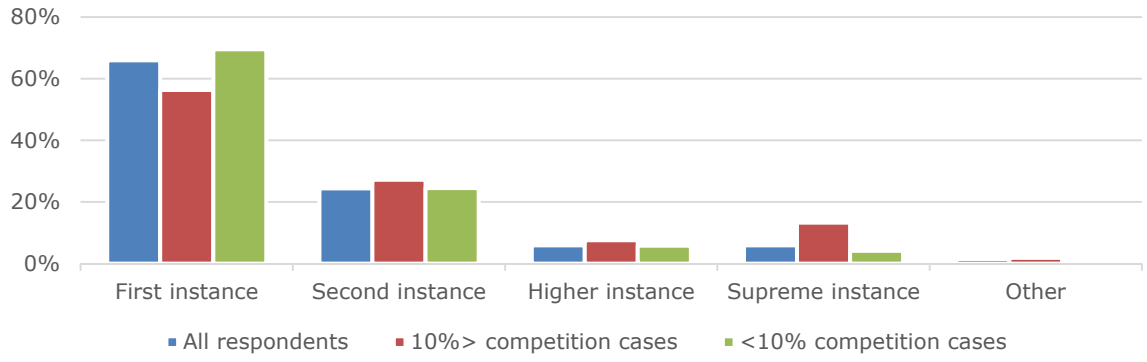
Degree of specialisation (1.5.) of judges with more than 10% caseload in competition law (3.3.(a))



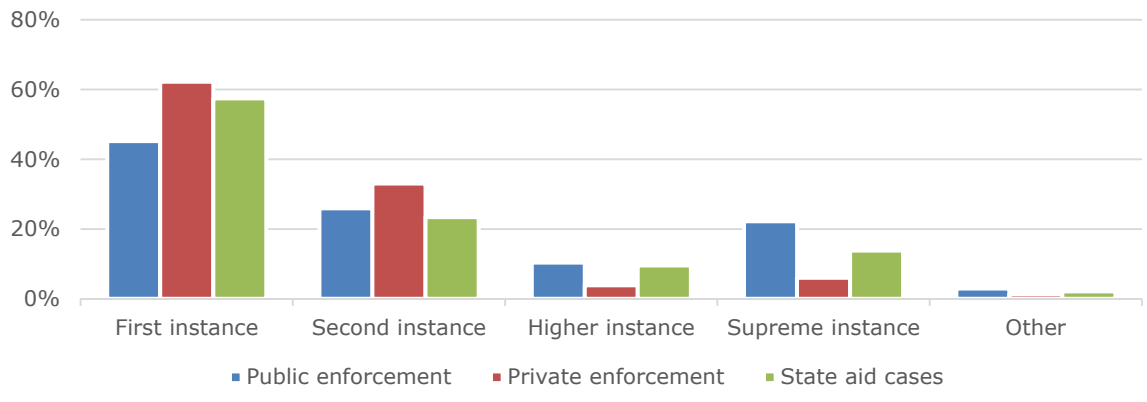
Cross-ref: degree of specialisation of judges (1.5.) by type of case (3.3.(b))?



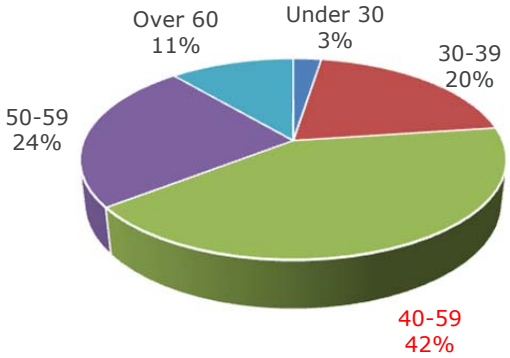
Cross-ref: Level in judicial system (1.6.) and competition law caseload (3.3.(a))



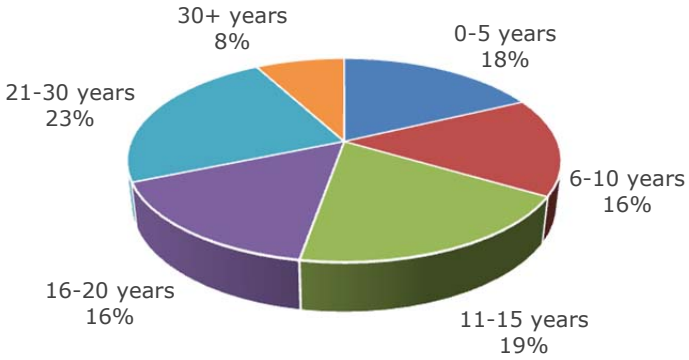
Cross-ref: Level in judicial system (1.6.) and type of case (3.3.(b))



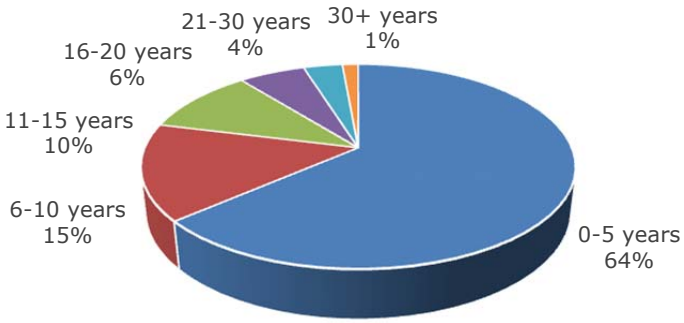
1.7. Respondents' age:



1.8 Number of years since respondents were first appointed (as judge/court staff):

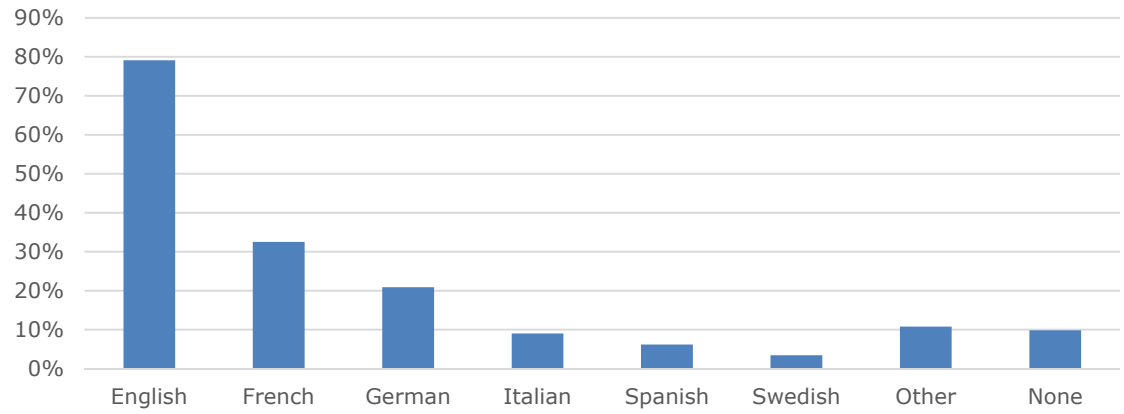


1.9. Number of years respondents have been dealing with competition law

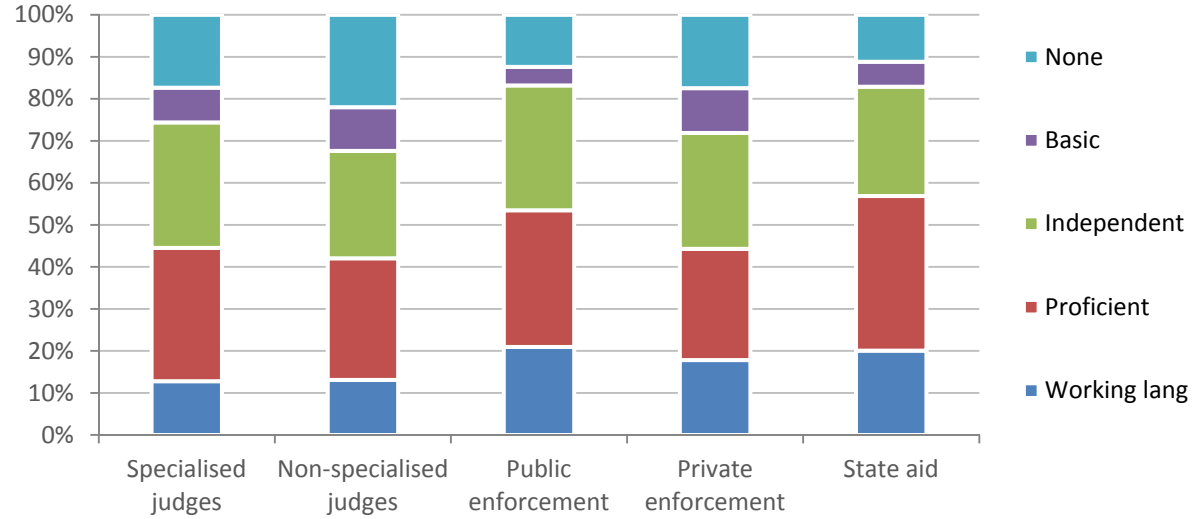


Knowledge of languages

2.2. Do you know another EU language? If yes, which?

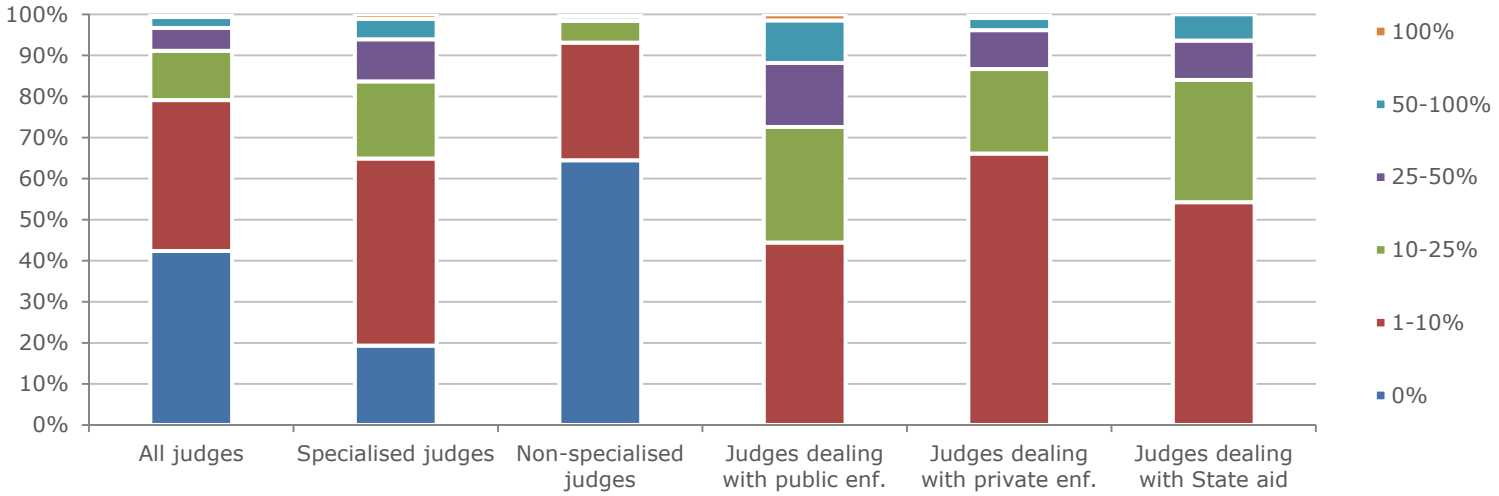


Cross-ref: English-language skills of different categories of judges



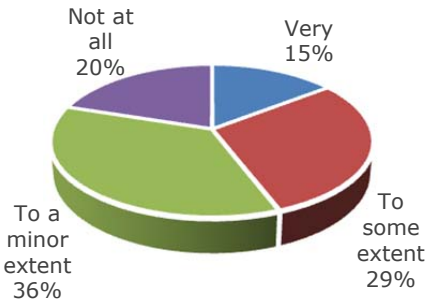
Knowledge of EU competition law

3.3. (a) Roughly speaking, in the course of a year how much of your caseload involves EU competition law?

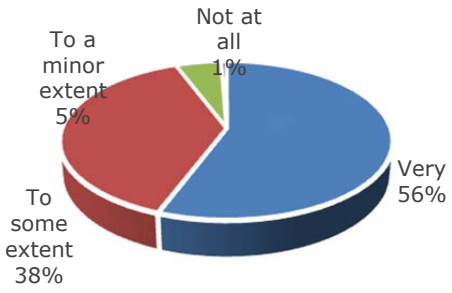


3.2. How relevant do you assess the knowledge of EU competition law for your judicial functions?

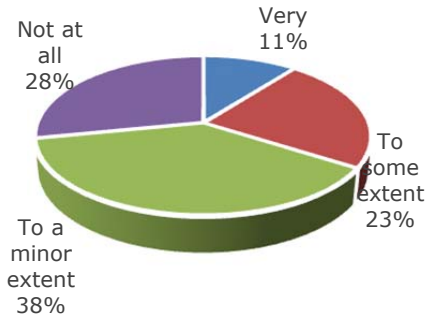
JUDGES DEALING *LESS THAN 10%* WITH EU COMP. LAW



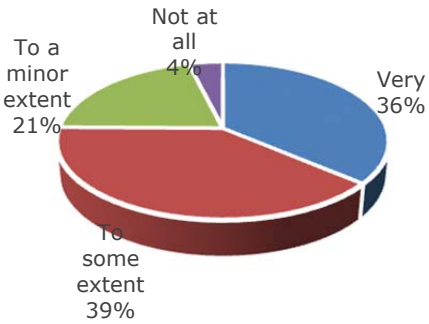
JUDGES DEALING *MORE THAN 10%* WITH EU COMP. LAW



JUDGES IN *NON-SPECIALISED* COURTS/CHAMBERS



JUDGES IN *SPECIALISED* COURTS/CHAMBERS



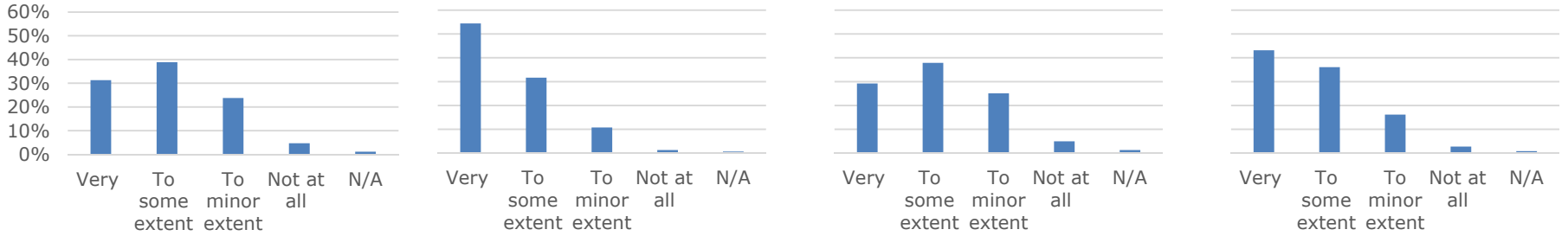
JUDGES DEALING *LESS THAN 10%* WITH EU COMP. LAW

JUDGES DEALING *MORE THAN 10%* WITH EU COMP. LAW

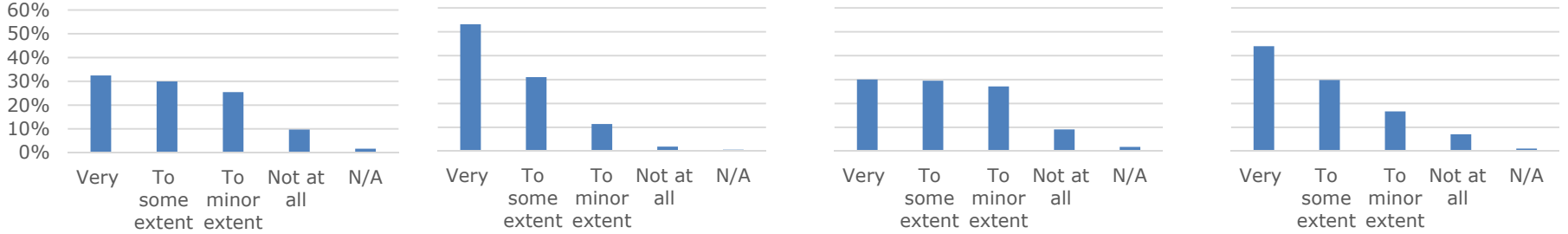
JUDGES IN *NON-SPECIALISED* COURTS/CHAMBERS

JUDGES IN *SPECIALISED* COURTS/CHAMBERS

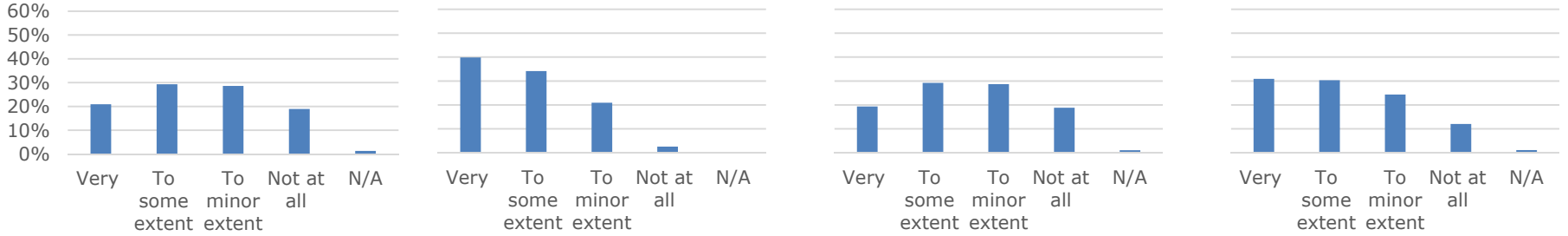
(a) I have a good knowledge of when to apply EU law directly



(b) I have a good knowledge of WHEN to refer a preliminary question to the CJEU



(c) I have a good knowledge of HOW to refer a preliminary question to the CJEU



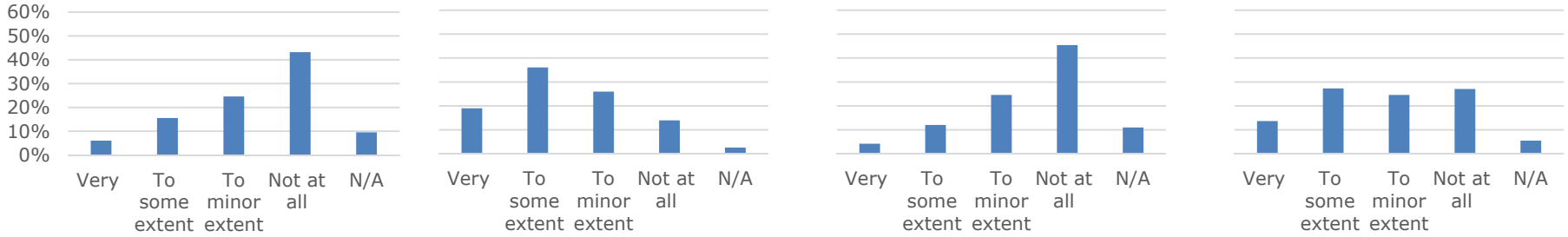
JUDGES DEALING *LESS THAN 10%* WITH EU COMP. LAW

JUDGES DEALING *MORE THAN 10%* WITH EU COMP. LAW

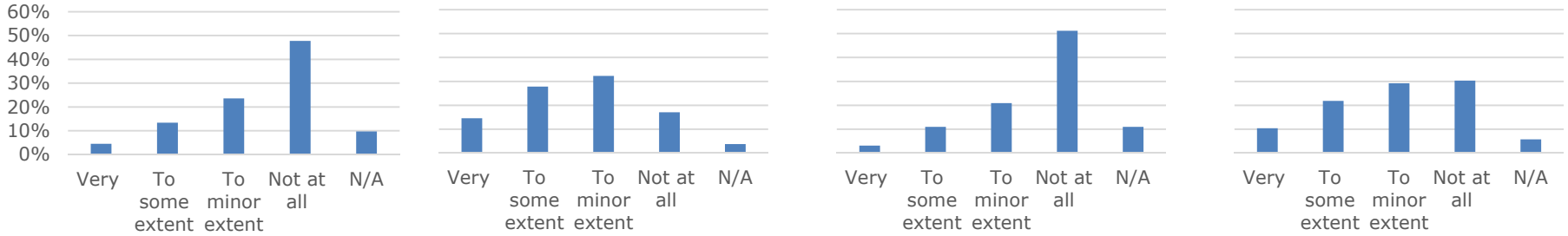
JUDGES IN *NON-SPECIALISED* COURTS/CHAMBERS

JUDGES IN *SPECIALISED* COURTS/CHAMBERS

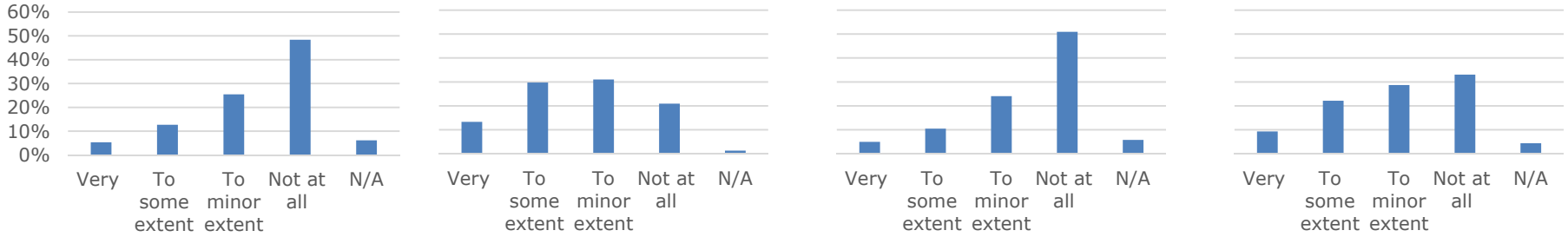
(d) I have a good knowledge of WHEN to report a judgment applying EU competition law to EC



(e) I have a good knowledge of HOW to report a judgment applying EU competition law to EC

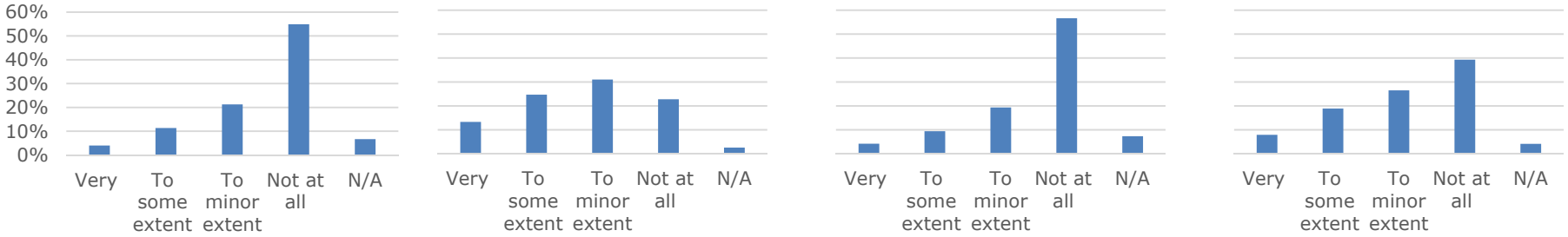


(f) I have a good knowledge of how to request an opinion from the European Commission

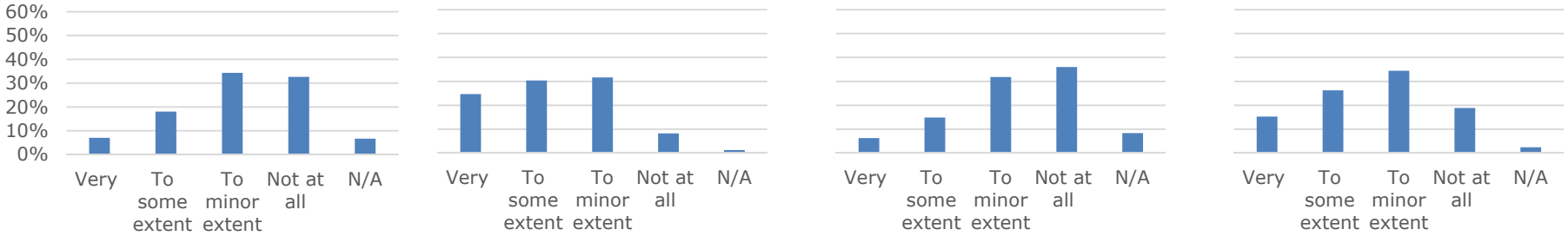


JUDGES DEALING *LESS THAN 10%* WITH EU COMP. LAW | JUDGES DEALING *MORE THAN 10%* WITH EU COMP. LAW | JUDGES IN *NON-SPECIALISED* COURTS/CHAMBERS | JUDGES IN *SPECIALISED* COURTS/CHAMBERS

(g) I have a good knowledge of how to use the European Commission as *amicus curiae*

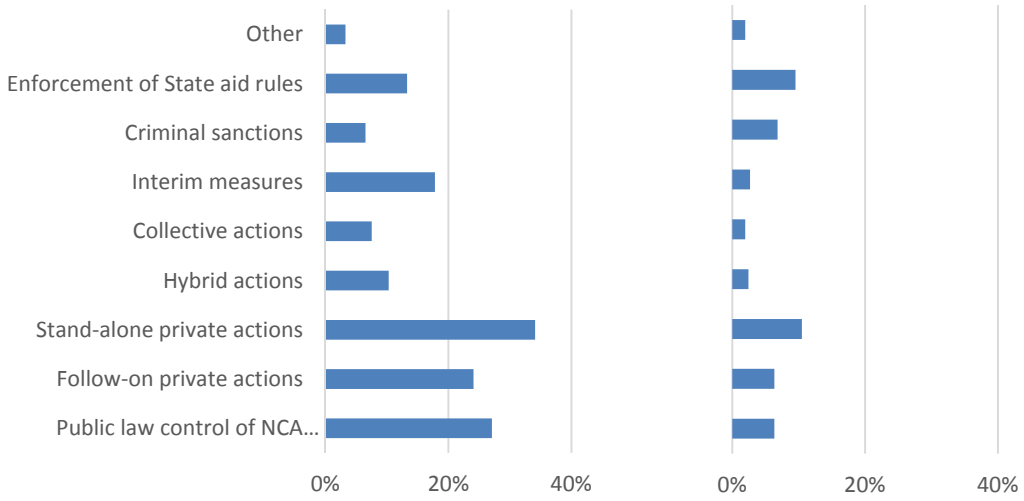


(h) I have a good knowledge of the interaction between EU competition law and European human rights law

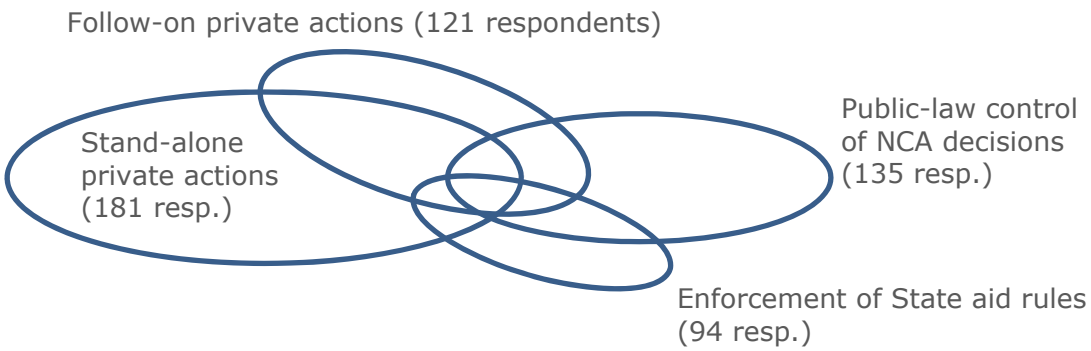


SPECIALISED JUDGES NON-SPECIALISED JUDGES

3.3. (b) In what type of cases (do you deal with EU competition law)?

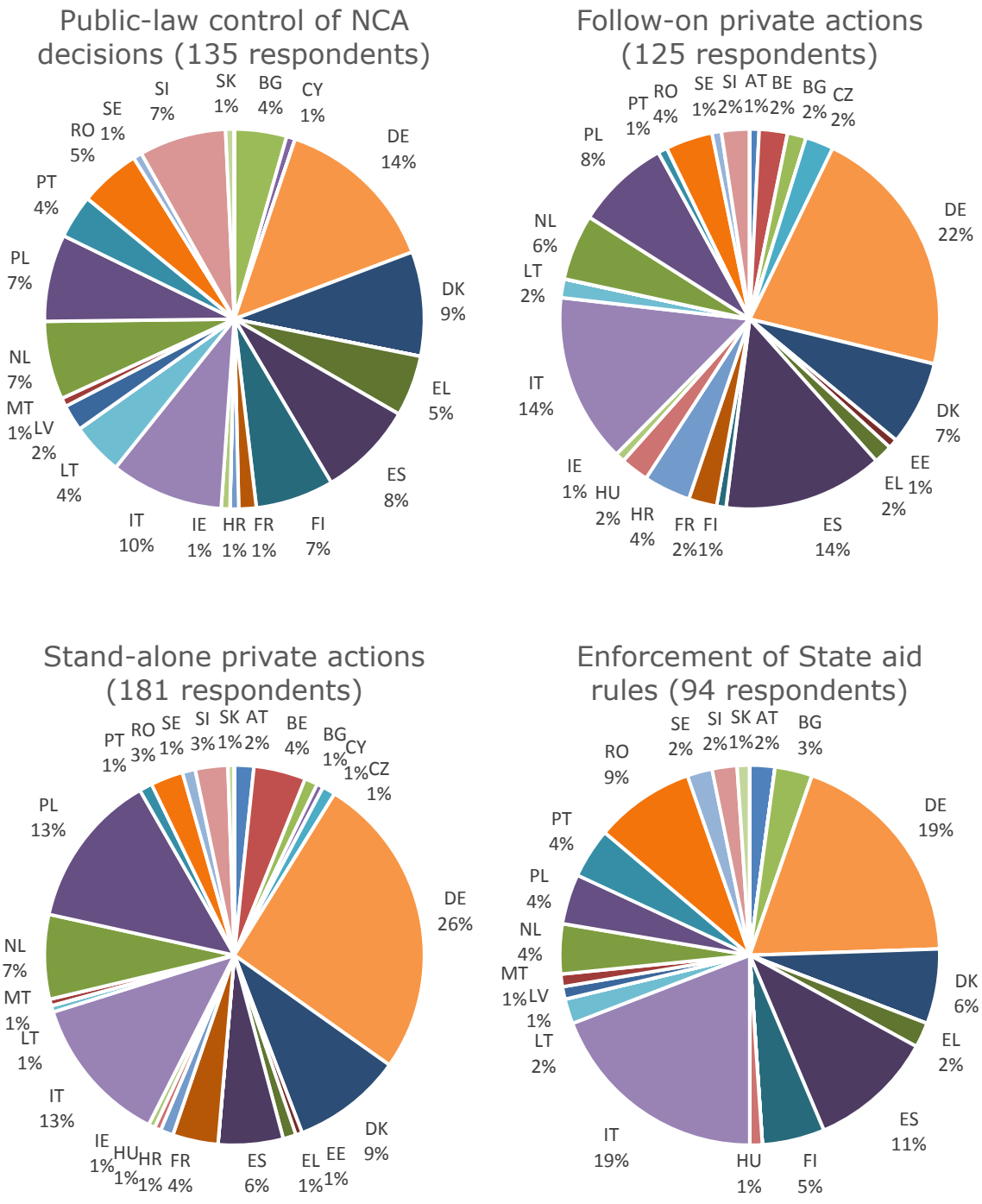


Cross-ref: Overlap of judges dealing with different types of cases:



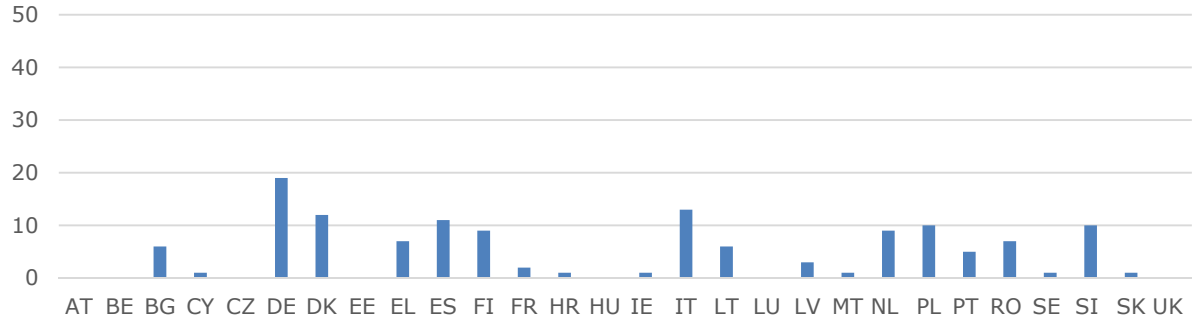
Cross-ref: Types of competition-related cases by Member State (survey respondents):

In what type of cases do you deal with EU competition law (percentages)?

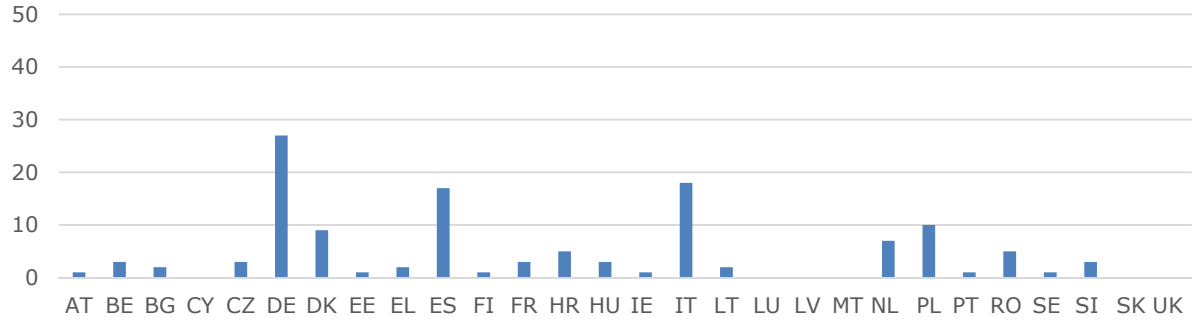


In what type of cases do you deal with EU competition law (absolute numbers)?

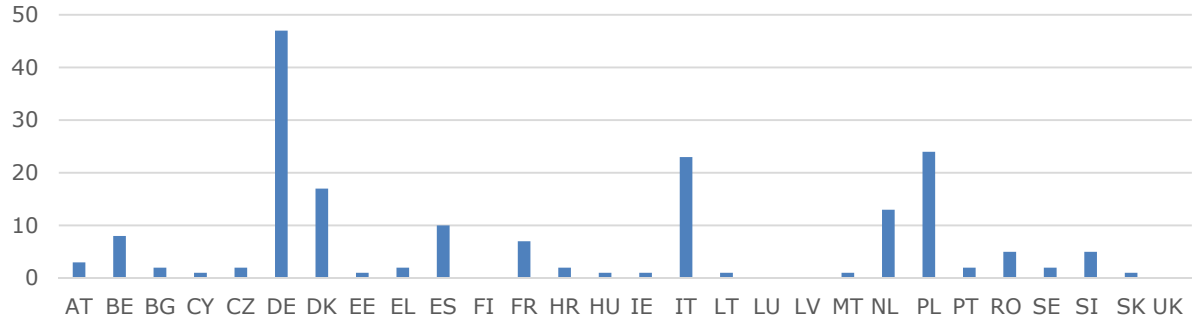
Public-law control of NCA decisions (135 respondents)



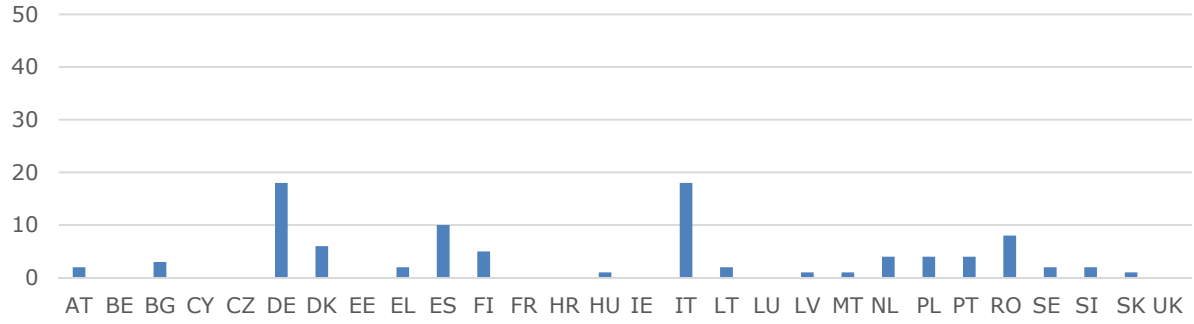
Follow-on private actions (125 respondents)



Stand-alone private actions (181 respondents)

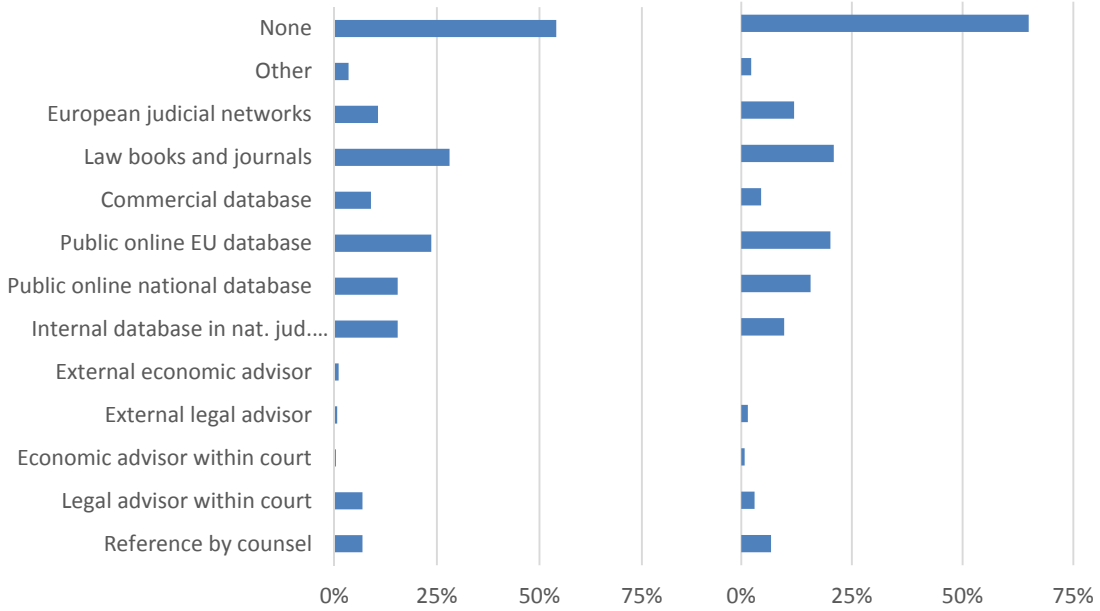


Enforcement of State aid rules (94 respondents)



SPECIALISED JUDGES NON-SPECIALISED JUDGES

3.4. (a) Did you get any support in finding out or understanding the applicable law? If yes, from which source?

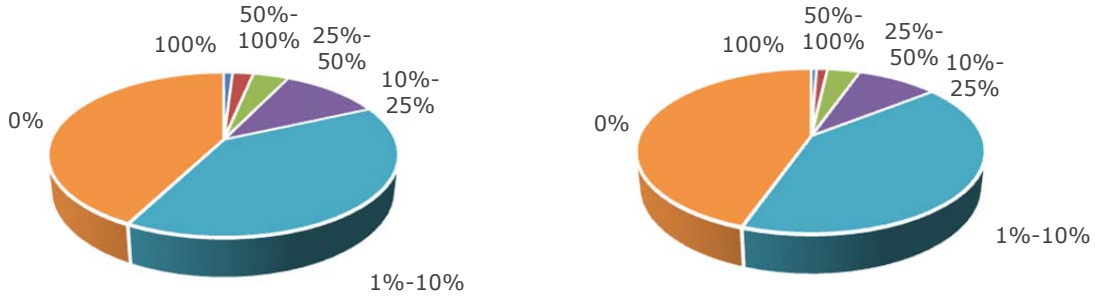


3.5. Has any training you have received been helpful in deciding such a case?

Academic legal studies

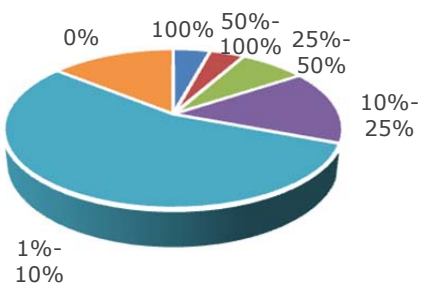
4.2. (b) If you studied law, to what extent was EU competition law part of your law degree?

SPECIALISED JUDGES NON-SPECIALISED JUDGES

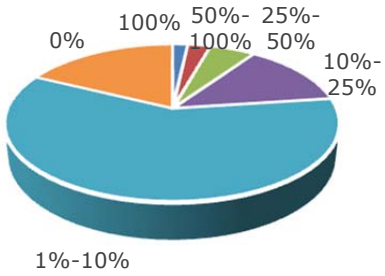


4.3. If you have a degree of any kind, to what extent was economics part of your academic studies?

SPECIALISED JUDGES



NON-SPECIALISED JUDGES

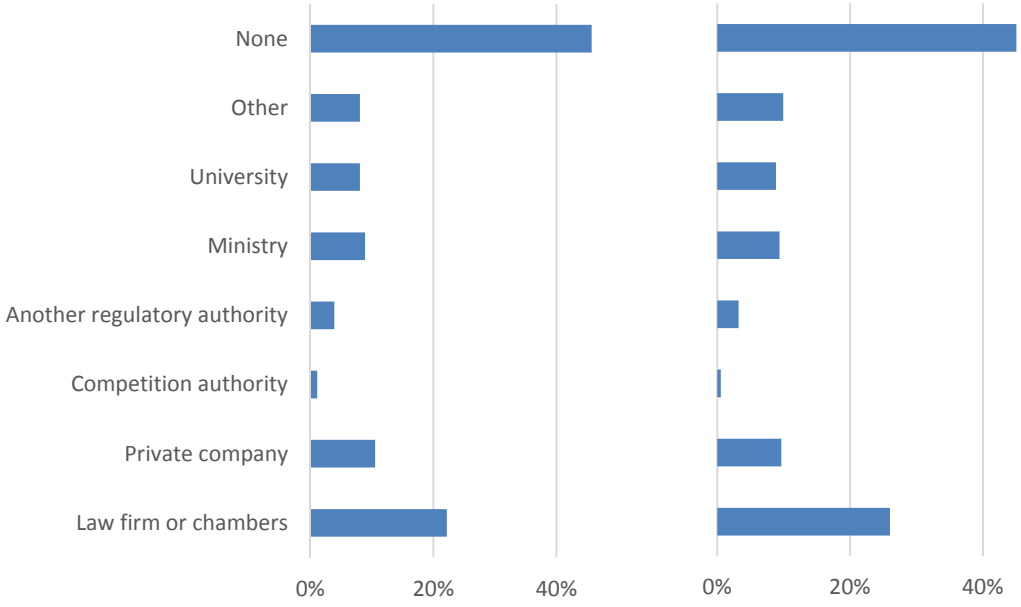


Initial training

5.1. Did you practise another profession before assuming judicial functions? If so, in which type of organisation?

SPECIALISED JUDGES

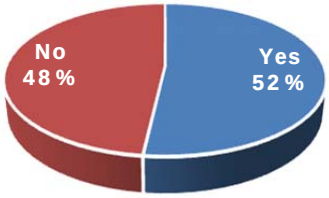
NON-SPECIALISED JUDGES



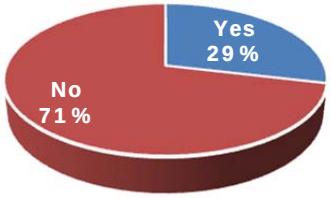
Continuous training in EU competition law

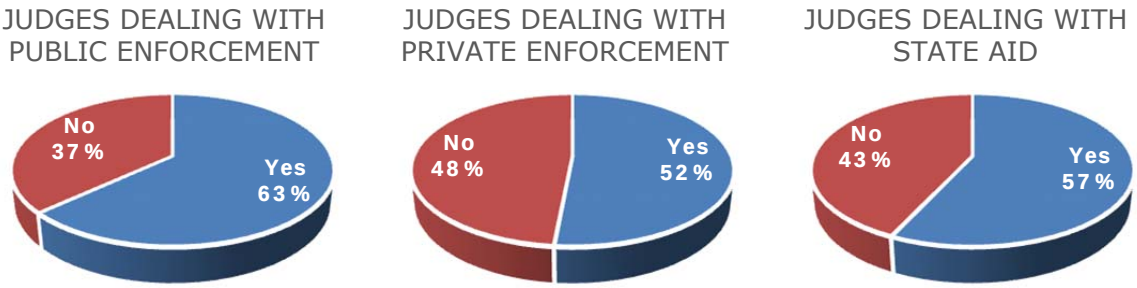
6.1. (a) Have you ever participated in judicial training in the field of EU competition law?

SPECIALISED JUDGES



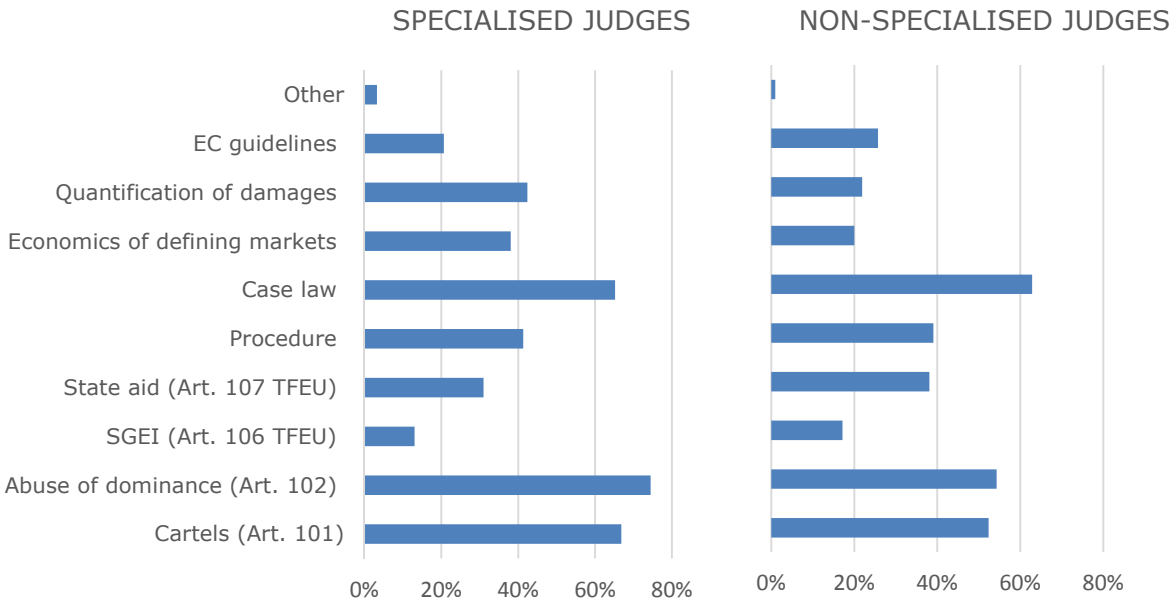
NON-SPECIALISED JUDGES

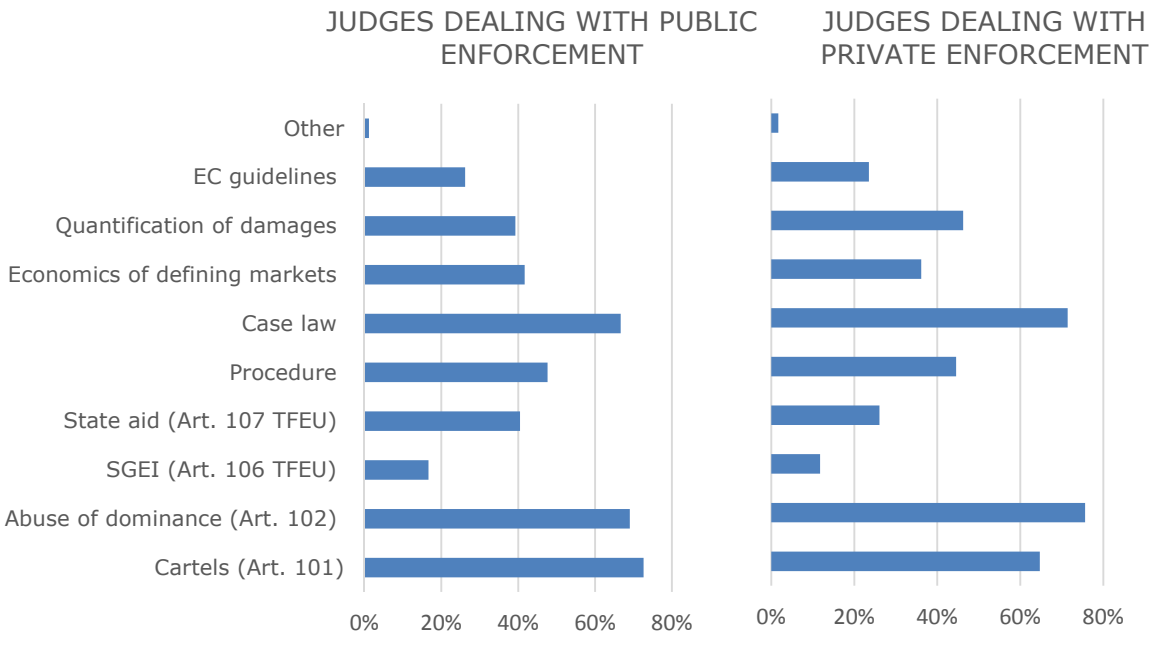


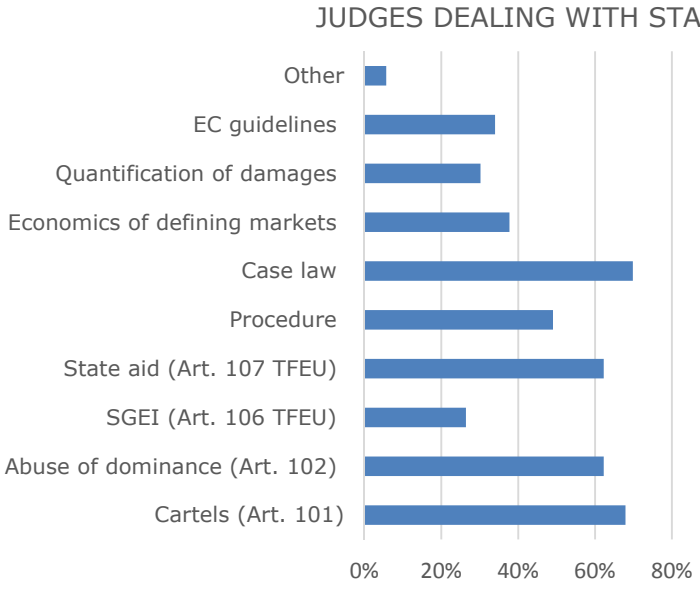


N.B. The following results (questions 6.1.(b)-(e)) contain only the responses of judges who have participated in training on EU competition law.

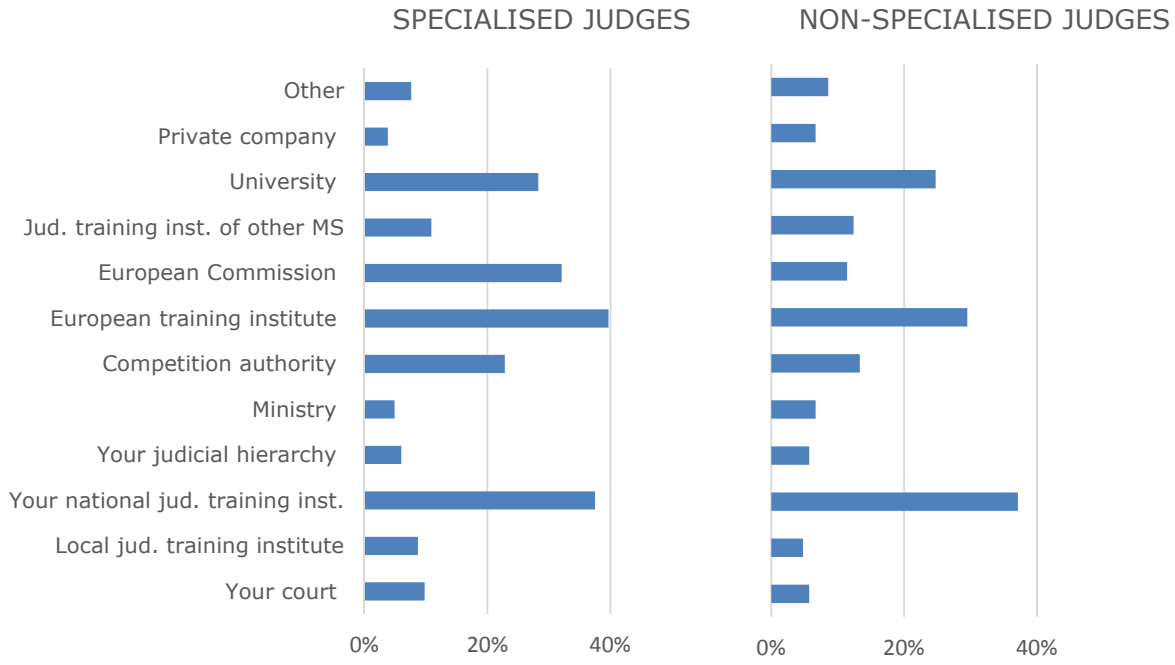
6.1. (b) Which aspects of EU competition law did it address?

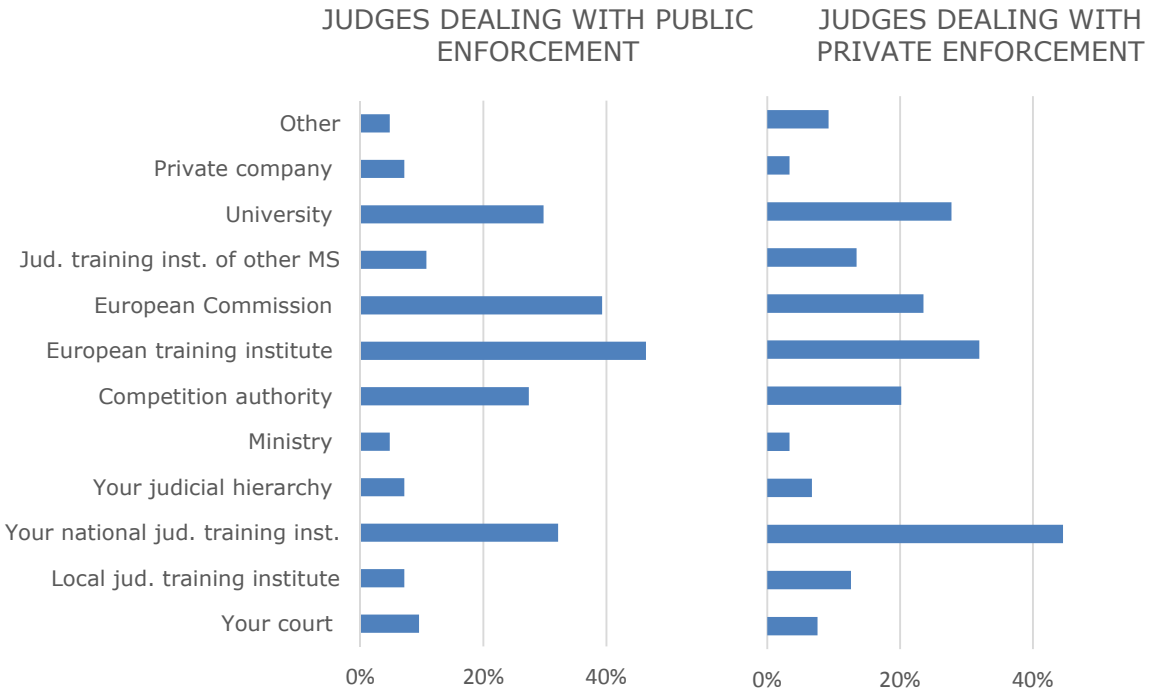






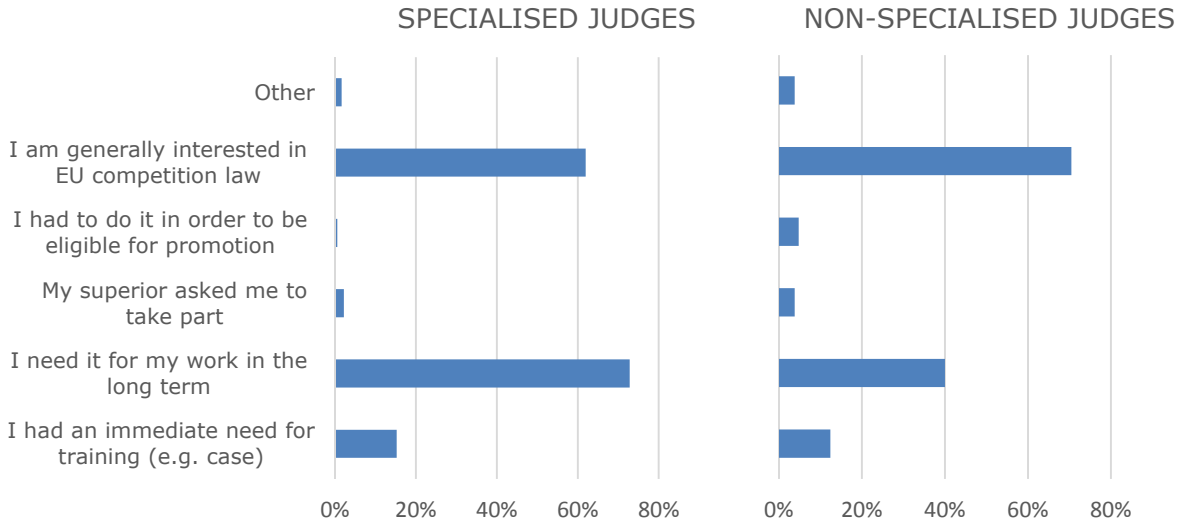
6.1 (c) Who organised it?



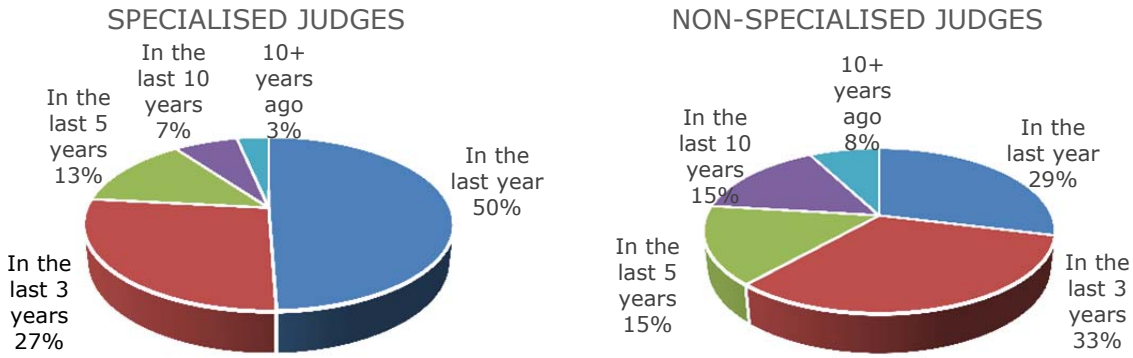

JUDGES DEALING WITH PUBLIC ENFORCEMENT
JUDGES DEALING WITH PRIVATE ENFORCEMENT
Other
Private company
University
Jud. training inst. of other MS
European Commission
European training institute
Competition authority
Ministry
Your judicial hierarchy
Your national jud. training inst.
Local jud. training institute
Your court
0%
20%
40%
0%
20%
40%


JUDGES DEALING WITH STATE AID
Other
Private company
University
Jud. training inst. of other MS
European Commission
European training institute
Competition authority
Ministry
Your judicial hierarchy
Your national jud. training inst.
Local jud. training institute
Your court
0%
20%
40%

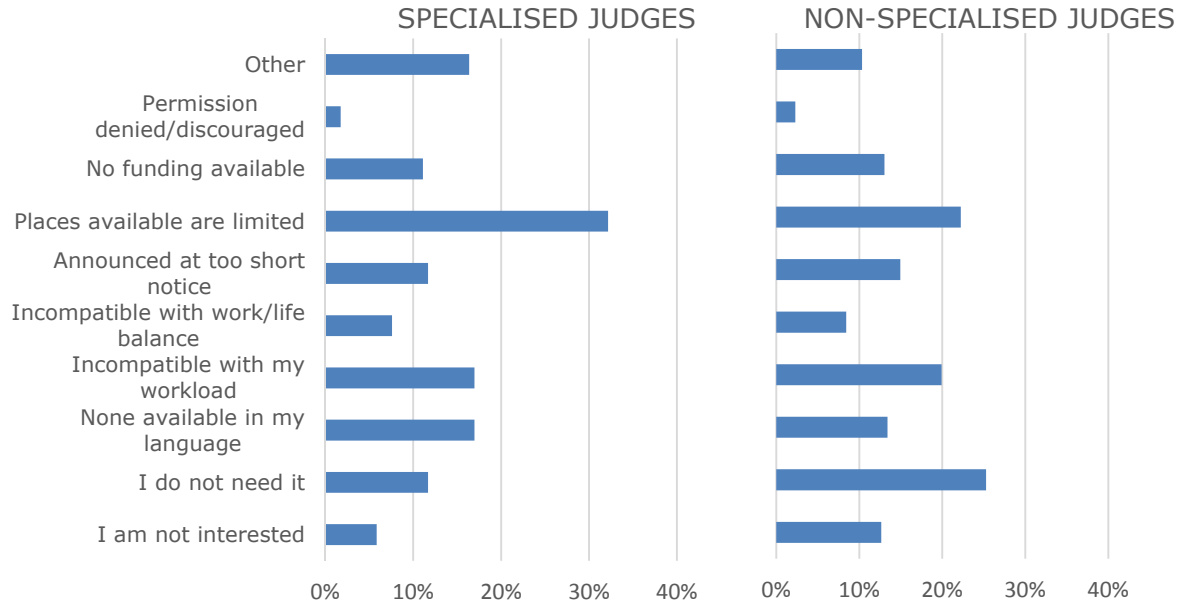
6.1 (d) What was your motivation to participate?



6.1. (e) When was the last time you participated in judicial training in the field of EU competition law?

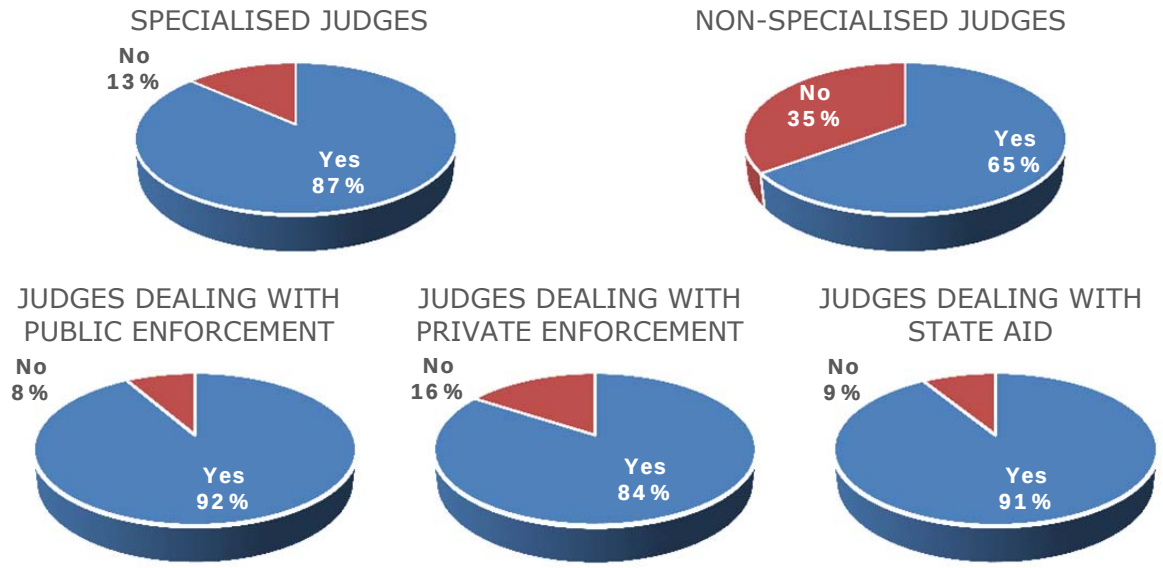


6.2. Why did you not participate in training on EU competition law (only responses of judges who have NOT participated in training on EU competition law)?

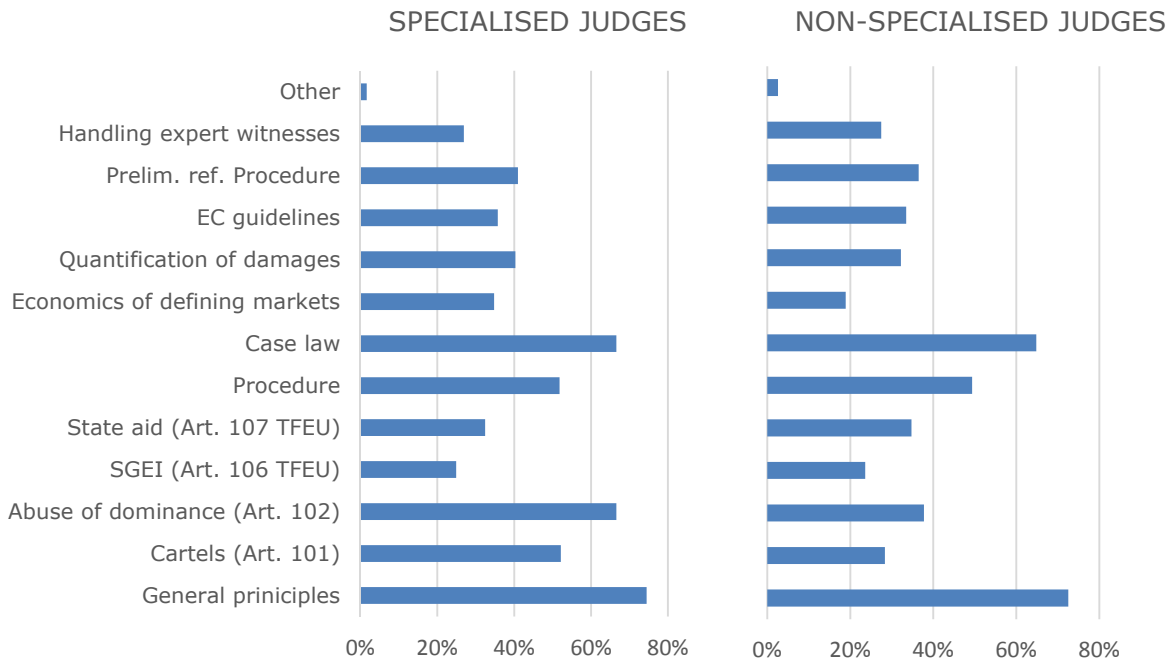


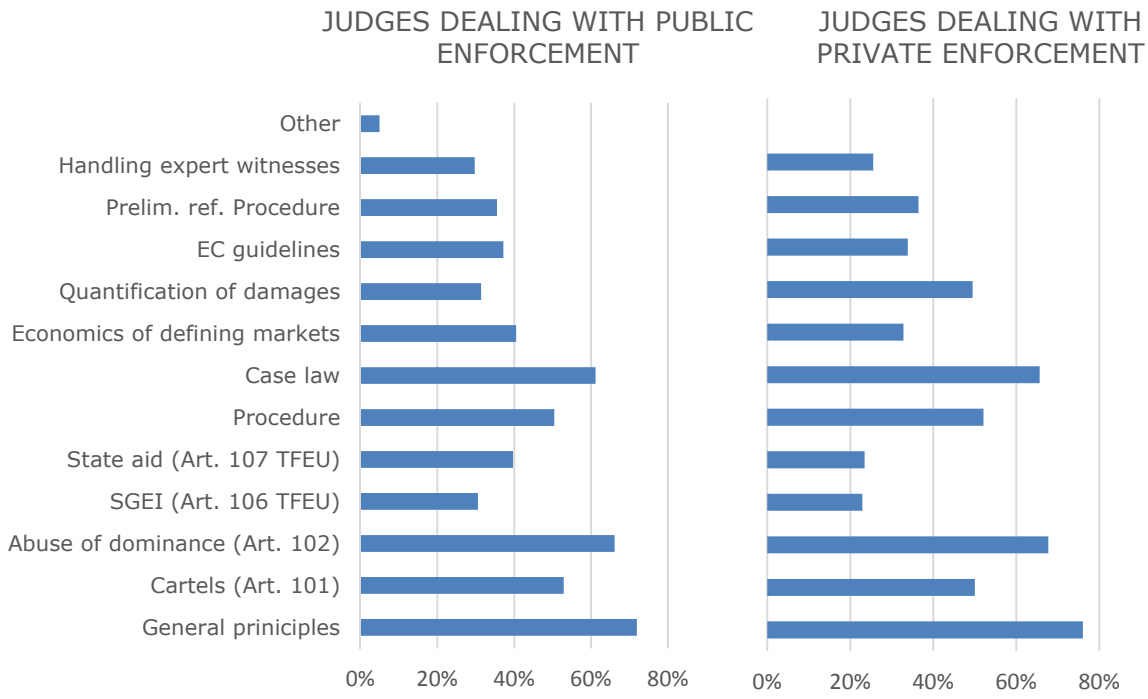
Current training provision

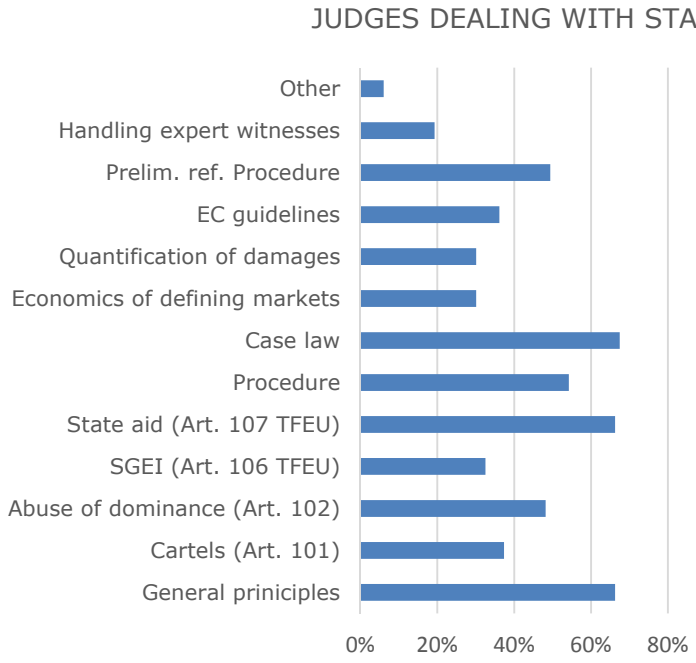
7.1. (a) Would you like more training on EU competition law?



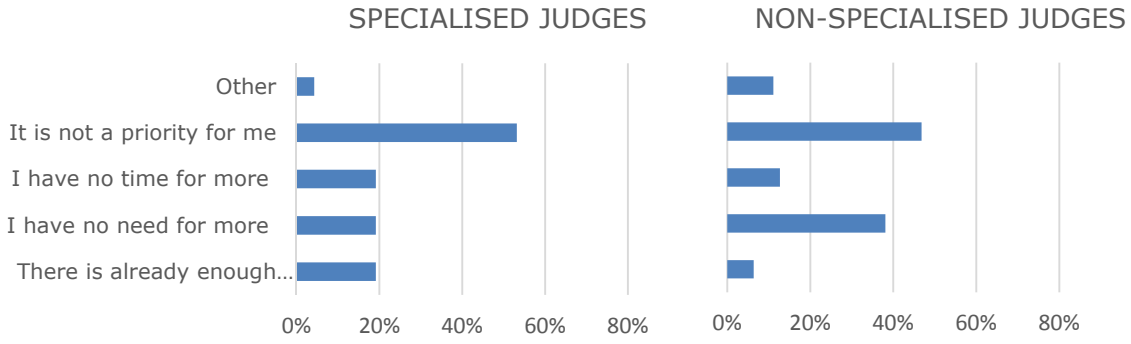
7.1. (b) If yes, on which topics?



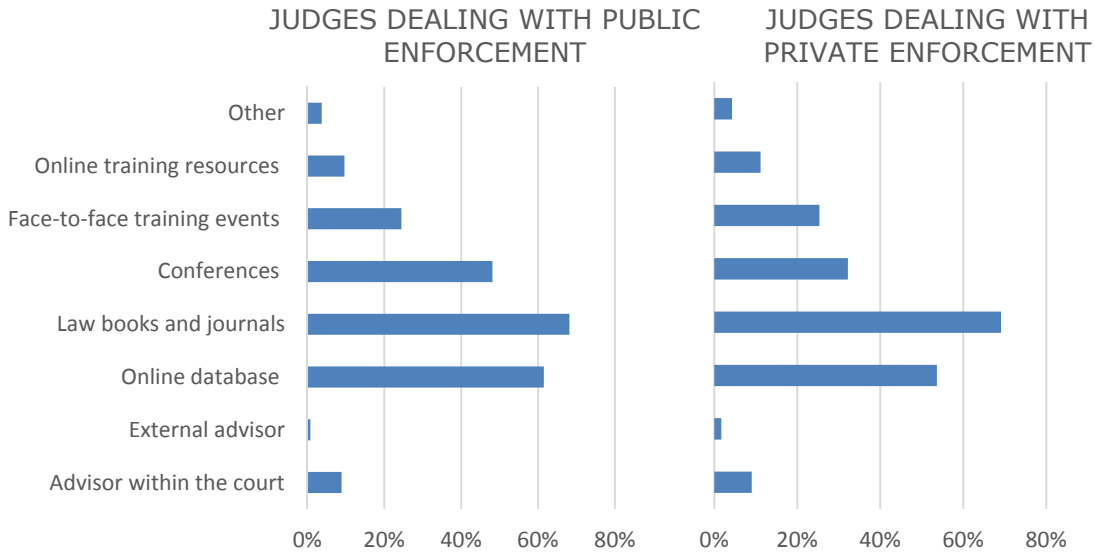

JUDGES DEALING WITH PUBLIC ENFORCEMENT
JUDGES DEALING WITH PRIVATE ENFORCEMENT
Other
Handling expert witnesses
Prelim. ref. Procedure
EC guidelines
Quantification of damages
Economics of defining markets
Case law
Procedure
State aid (Art. 107 TFEU)
SGEI (Art. 106 TFEU)
Abuse of dominance (Art. 102)
Cartels (Art. 101)
General priniciples
0%
20%
40%
60%
80%

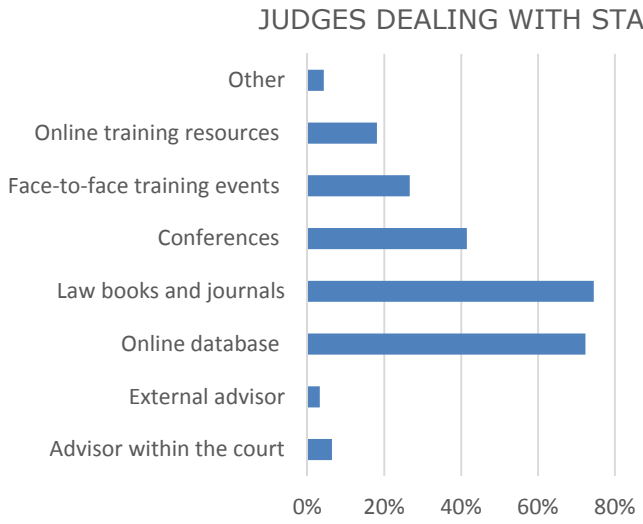

JUDGES DEALING WITH STATE AID
Other
Handling expert witnesses
Prelim. ref. Procedure
EC guidelines
Quantification of damages
Economics of defining markets
Case law
Procedure
State aid (Art. 107 TFEU)
SGEI (Art. 106 TFEU)
Abuse of dominance (Art. 102)
Cartels (Art. 101)
General priniciples
0%
20%
40%
60%
80%

7.2. If not, why not?



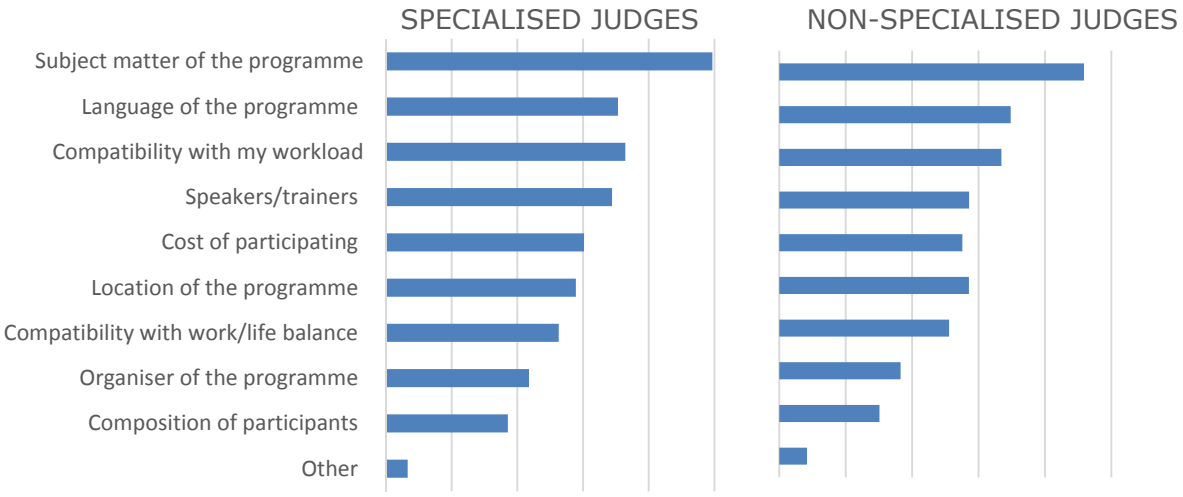
7.3. How do you update your knowledge of EU competition law and jurisprudence?



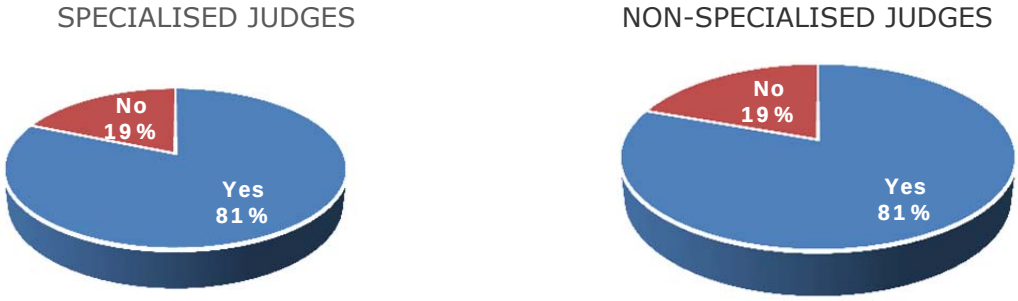


Priorities and preferences for training

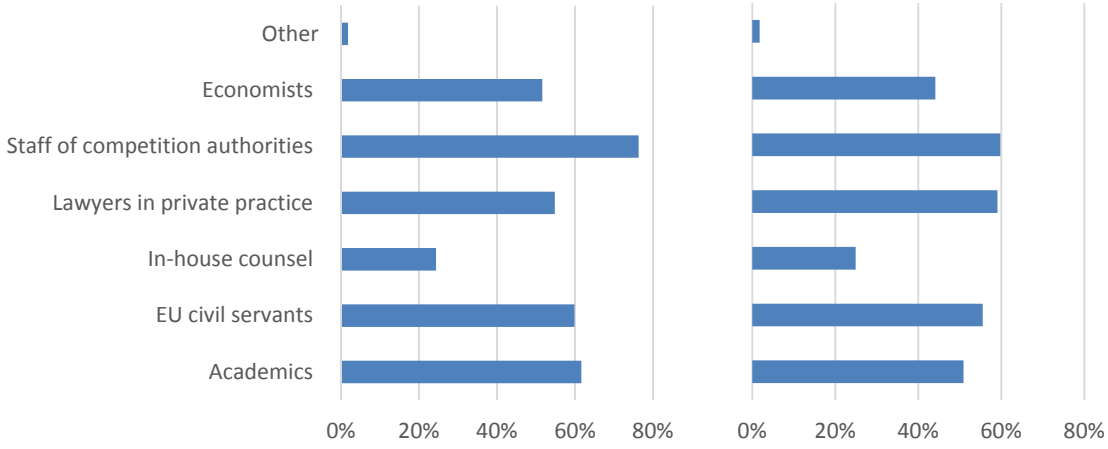
8.1 If you were presented with a face-to-face training programme on EU competition law, how important would the following factors be in deciding whether or not to attend? (Respondents were asked to rank the factors: answers represent accumulated ranking.)



8.2. (a) Do you find training with participants from other professions to be useful?

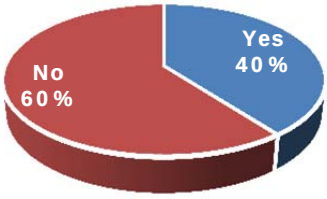


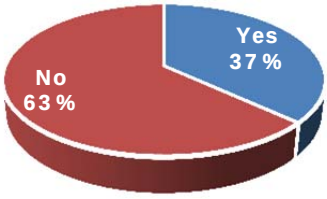
8.2. (b) If yes, from which professions?

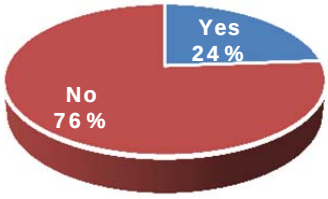


JUDGES UNDER 40 | JUDGES AGED 40-49 | JUDGES OVER 50

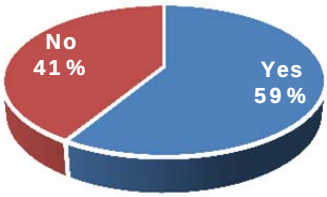
8.3 Have you ever used or engaged in a distance learning activity on a legal subject?

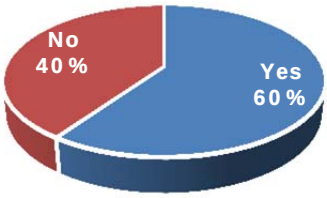


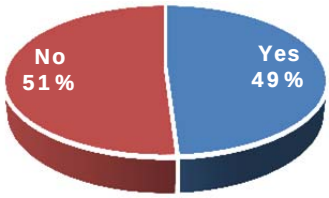




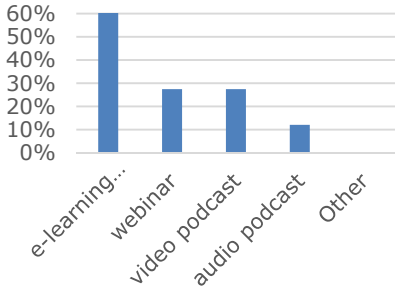
8.4 (a) Would you like to make greater use of distance learning?

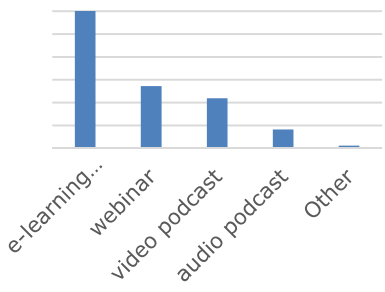


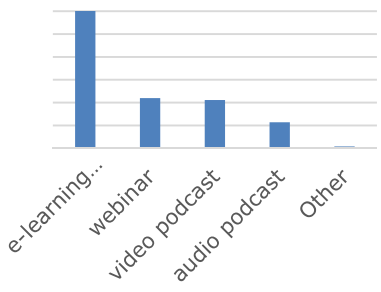




8.4 (b) If yes, in which form?



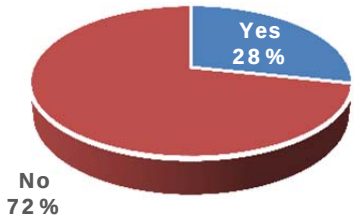


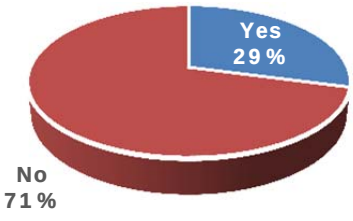


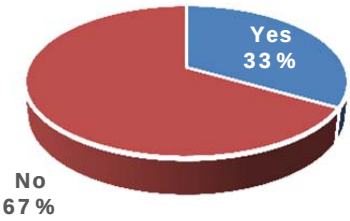
Networking and databases

JUDGES DEALING WITH PUBLIC ENFORCEMENT | JUDGES DEALING WITH PRIVATE ENFORCEMENT | JUDGES DEALING WITH STATE AID

9.1. Have you ever contacted a foreign judge or other authority in connection with a case?





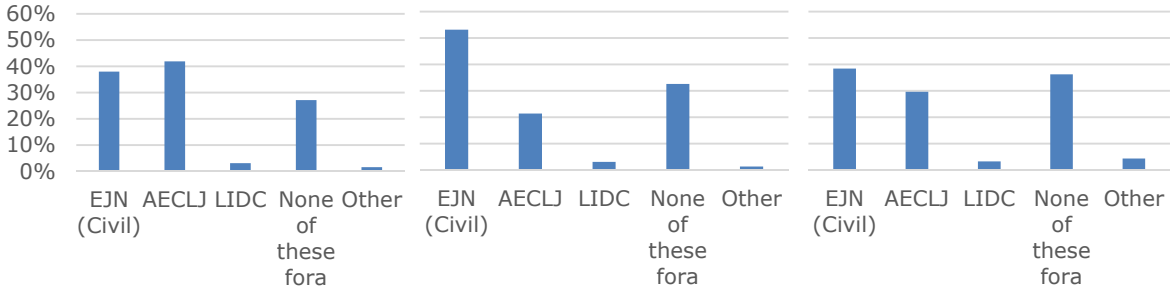


JUDGES DEALING WITH PUBLIC ENFORCEMENT

JUDGES DEALING WITH PRIVATE ENFORCEMENT

JUDGES DEALING WITH STATE AID

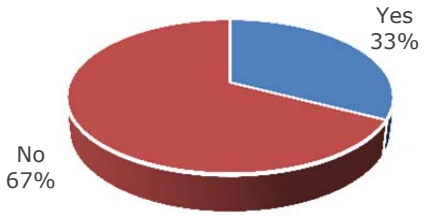
9.2. Are you aware of the following existing fora for contacts with foreign judges?



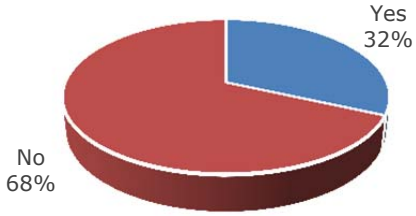
SPECIALISED JUDGES

NON-SPECIALISED JUDGES

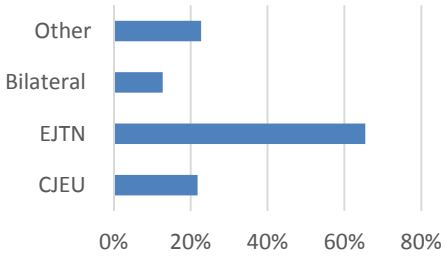
9.3. (a) Have you ever taken part in an exchange or internship with judges from other Member States?

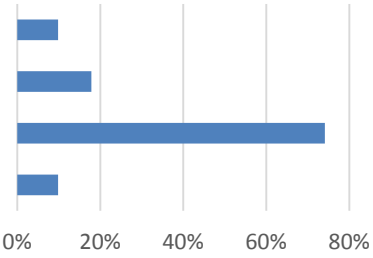


9.3. (a) Have you ever taken part in an exchange or internship with judges from other Member States?

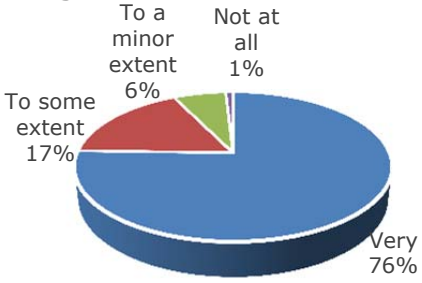


9.3. (b) If yes, in which framework?

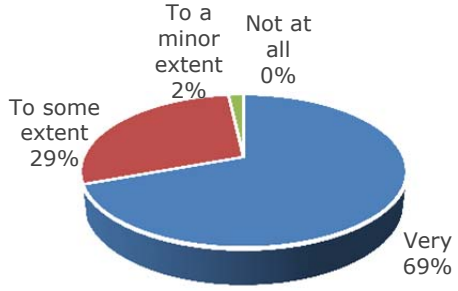




9.3. (c) If you have already participated in a judicial exchange, how useful was it?

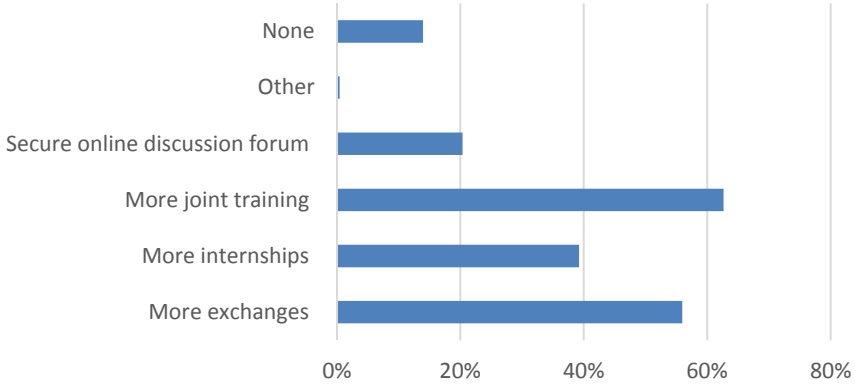


9.3. (c) If you have already participated in a judicial exchange, how useful was it?



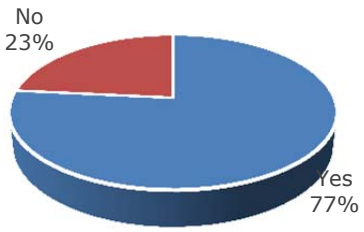
ALL JUDGES

9.4. Would you appreciate measures to make it easier to have contacts with foreign judges and, if yes, which?

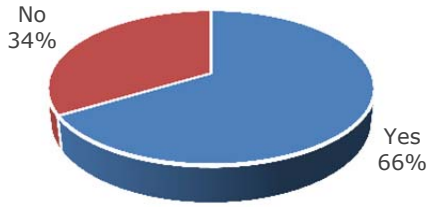


SPECIALISED JUDGES

9.5 (a) Have you ever used an EU law database?

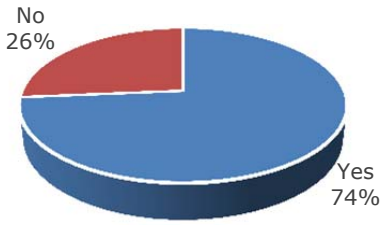


9.5 (b) If yes, do you think the currently available databases on EU law could be improved?

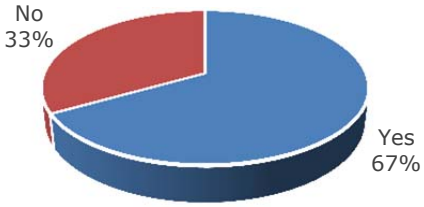


NON-SPECIALISED JUDGES

9.5 (a) Have you ever used an EU law database?



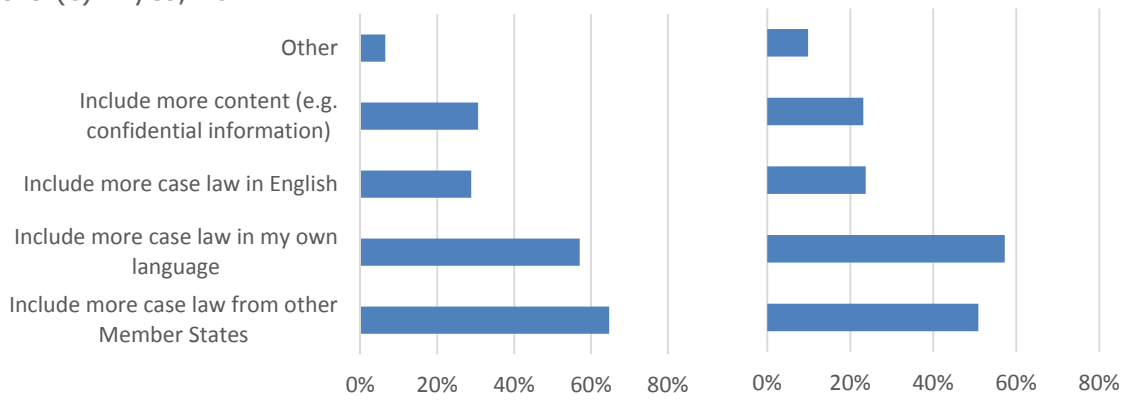
9.5 (b) If yes, do you think the currently available databases on EU law could be improved?



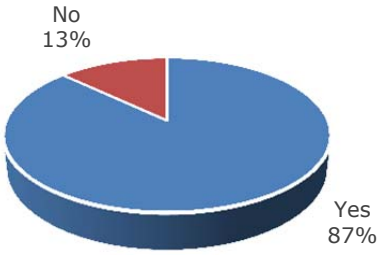
SPECIALISED JUDGES

NON-SPECIALISED JUDGES

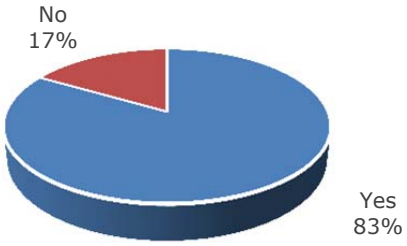
9.5 (c) If yes, how?



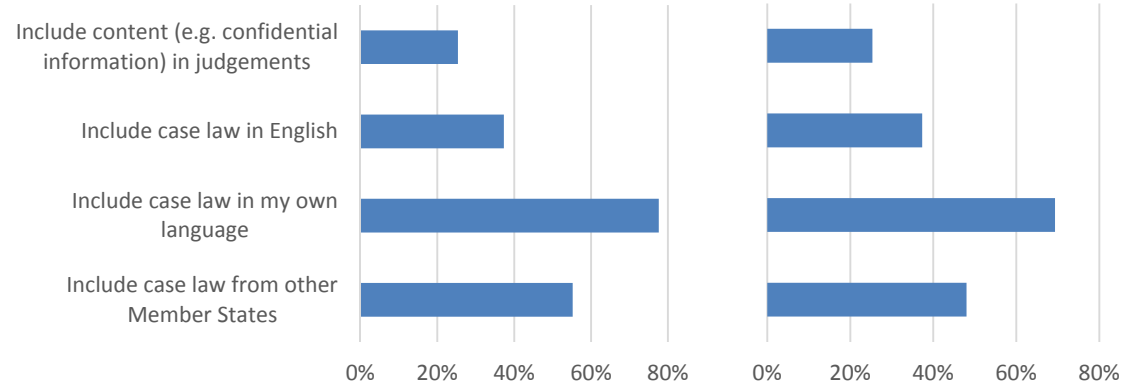
9.5 (d) If no, would you find such a database to be useful?



9.5 (d) If no, would you find such a database to be useful?



9.5 (e) Under which conditions?



Annex 2.5. Focus groups

Face-to-face discussion groups were held to analyse trends emerging from Research Area 1 and the initial results of the needs analysis survey, as well as to focus in depth on specific questions:

(a) Lisbon, 18 September 2015, with the support of the Portuguese Centre for Judicial Studies. Judges and prosecutors from the specialised court for competition and regulation as well as generalist judges from the civil courts participated, alongside judicial trainers, representatives of the national competition authority, the Portuguese competition lawyers' association and Portuguese beneficiaries of the "Training for Judges" programme. Portugal was chosen for this focus group as it has historically had the highest number of participants in events funded by the "Training for Judges" programme.

(b) Scandicci (Florence), 22 September 2015, with the support of EJTN and the Italian School for the Judiciary. This group focused on judicial trainers. Members of the EJTN sub-working group on civil justice, regardless of whether they have been directly involved in competition law training, and some of the main recent beneficiaries of the "Training for Judges" programme (EUI, GVH/OECD), participated.

(c) Helsinki, 24 September 2015, with the support of the Finnish Market Court and the Finnish Ministry of Justice. Judges from the Market Court, Helsinki District and Appeal Courts and the Supreme Court participated. Finland was chosen for this focus group due to the unusually high number of damages actions currently pending before the Helsinki District Court.

Each of the groups was presented with the initial results of the needs assessment survey and invited to participate in a structured discussion led by the research team. The questions posed included the following (country-specific questions in italics):

i. Why the popularity of the funding programme in Portugal?

ii. Training providers: what are the advantages and disadvantages of the "Training for Judges" programme? How to improve it?

iii. What are the distinct training needs and priorities of the different target groups for training (specialised and non-specialised judges, prosecutors, other actors, at different levels of the judicial system)?

iv. Access to training: what are the main obstacles for judges to obtaining adequate training? Are there specific obstacles to training in EU competition and State aid law?

v. Language skills: is it more important to offer more (competition-related) English-language training or to offer more competition-law training in Finnish/Portuguese?

vi. Economic aspects of competition: how much training do judges need and on what specific topics?

vii. State aid: which courts need most training on the EU rules in this field?

viii. Training of other target groups: how important is it that other professions (e.g. lawyers in private practice) have access to EU funding for training in this field?

Are judges open to joint training with such target groups? If so, under which conditions?

ix. What role should national competition authorities play in the training of judges on EU competition law?

x. Funding programme: is the current co-financed grant method the best way to achieve the programme's objectives or would another method be more effective?

These questions derived from the findings of Research Areas 1 and 2 and advice and input provided by the two meetings with the Expert Panel. The meetings in Lisbon and Scandicci started with a presentation from ERA and Ecorys, followed by an open discussion. The meeting in Helsinki involved an overview of the Project and its findings by ERA and an open discussion.

In all three Focus Groups the geographic location of the training was also mentioned as a contributing factor on making the decision on whether to travel abroad for training.

From the perspective of judges, the motivation to attend courses was mixed. A lot depended upon whether attendance at courses would facilitate career progression, and was not necessarily linked to actual need [ie, whether the judge was indeed likely to encounter a competition law case].

Both trainers and [actual or potential] participants mentioned the value in bringing judges together from different jurisdictions to exchange views and the need for follow-up contact, for example, through a closed forum online, follow-up seminars to develop new ideas or practices learnt from previous training programmes as well as continuing programme.

The need for follow-up aspects of training was clearly recognised by all three Focus Groups. This was also related to resources, for example a data base of national court decisions, continuing sessions on new developments at the national and EU level. It was noted that English was now the dominant language in competition law information (EU level case law and policy) as well as academic commentary and professional resources. Thus there was a need for resources to be channelled to translating major EU policy developments into national languages in order to make information more accessible.

All three Focus Groups mentioned the fact that training needs to be selective, distinguishing between basic training and specialised training in EU competition law. Specialisation can take different aspects: for example, the form of advanced training (which could include training in economics) or training in specific areas (for example quantification of damages for breach of competition law)

The Focus Groups 1 and 2 (Scandicci) revealed the necessity for better planning of a programme of training. The current approach produces inefficiencies by duplicating basic training (for example training programmes try to cover all of the basic provisions of competition, whereas many judges will only encounter Article 101 TFEU). Courses could be more selective and target particular groups of judges who may need specific training on certain parts of competition with problem-solving or case management at the heart of the training. It was pointed out that most judges will not encounter Article 106 TFEU cases, for example.

All three Focus Groups made the point that purely academic training in competition law was not an appropriate way to conduct training. It was also noted that often speakers were engaged from different sources and the quality of the speaker/trainer could vary.

Judges and practitioners noted that procedural aspects are as important as training in substantive law (both basic law and up-dates) and this necessitated an integrated approach focusing upon national procedural aspects.

There were distinct differences of opinion on language capability to attend training courses. Trainers would prefer participants to be familiar in working in English. In contrast at the national level there was a view that judges were working with the national system of competition law, applying EU law through the national system, and that English language competence was not a necessary criterion for funding of national EU competition law training.

There were mixed views on the integration of training with practitioner training. In Portugal, for example, this was not seen as an issue, since there was greater openness between the judiciary and the practising Bar. However there was an emphasis in all three Focus groups on the necessity for judges to retain anonymity and confidentiality and to have confidence in the training fora that this would be respected.

The Focus Groups revealed that the desirability and necessity for including economics training for EU competition law application at the national level was an issue that was still under-explored. For some cases, at first instance, relying upon analysis of facts it was recognised that some training in economics could be valuable, but this was not considered to be a major issue currently.

In all three Focus Groups issues of State Aid in national courts was not considered to be a significant part of the case workload and State aid issues were considered to be handled more at the political, government level, or through public law or constitutional courts.

Annex 2.6. Consultation of stakeholders

In addition to performing a needs analysis with judges themselves, the research team sought to consult the other parties to the judicial process, namely the national competition authorities and the national bars and/or groups of lawyers dealing with competition law in the Member States, on their views of the training needs of judges in this field.

A.2.6.1. Consultation of national competition authorities

Thanks to the Italian Competition Authority, in particular Gabriella Muscolo, its Commissioner and member of the expert panel for this study, the research team had the opportunity to present the current study project to high-level representatives of the European Competition Authorities at their annual meeting in Bergen on 10 June 2015. Subsequently, all national competition authorities were invited to participate in a consultation in the form of a short list of open questions on their views regarding the training needs of judges in the field of EU competition law:

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not? *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

3. On what subjects, in your view, do judges most need training in the field of European competition law? *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

4. How would you improve the provision of training for judges on European competition law in your jurisdiction? *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

5. What do you think of joint training programmes for judges and other parties in the judicial process?

6. Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?

7. Any further remarks?

The research team received answers from 15 national authorities (Croatia, Cyprus, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Sweden, UK).

A.2.6.2. Responses of national competition authorities

CROATIA

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

Our point of view is that judges in Croatia do not receive adequate and sufficient training in European Competition Law. Firstly, during studies at the Law Faculty, European competition law is only lectured as a part of European law course and later there is no possibility for judges to specialize in competition law. This is related to the fact that there are no specialized courts in competition law in Croatia. Competition law issues are solved by High Administrative Court (judicial review) and by commercial courts (damages actions and private enforcement) and so far there are no specialized judges in competition law. In practice this means that the same judge at High Administrative court deals at the same time with cases related to intellectual property rights or electronic communication and competition. Hence, from one side, judges should receive more adequate training and from the other side, the judges should specialize in European and national competition law.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

In Croatia, judges from the High Administrative Court and from commercial courts need training in European competition law because those are the courts competent to deal with competition law issues. Besides judges, judicial advisers working on the mentioned courts should be trained because they are responsible for preparing the judgments together with the competent judges.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

As mentioned, Judges in Croatia are still not familiar enough with national competition legislation and with Articles 101 and 102 of the TFEU, hence, they need more training on basics of European competition law to understand better main definitions, such as undertakings and relevant market, what is cartel as prohibited agreement especially the forms it can take (prohibited agreement within the association of undertakings). It would be very useful for Croatian judges to get more detailed insight into the most relevant EU competition case law from the Court of justice and General Court. In addition, some introduction to the principles of the EU law such as supremacy of the EU law, subsidiarity, proportionality or uniform application of EU competition law would be very useful. For commercial court judges training or presentation on new EU Directive on damages in antitrust proceeding with some useful examples on the quantification of damages would be helpful. Finally, in order to completely understand competition law which is largely economically related field of law, it would be good to include some basic lectures in economics.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Regular trainings focused on judges from administrative and commercial courts with guest speakers from the European Court of justice or General courts or from courts from other member states or European Commission with practical examples and hypothetical cases. The best would be to organize such trainings or workshops via national Judicial Academy and to have each time new guest speaker either from national competition authorities, judges from European courts or lawyers or academics. The focus should be on the current and earlier important judgments which lead to the development of EU competition law.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

There should be primarily special training program aimed at judges who deal with competition law cases (either in the appeal proceeding or in the damages actions). However, there might be added value in organizing joint workshop involving different parties in the judicial process, such as judges, lawyers, representatives from national competition authorities. Such joint training should be very practical and interactive and it should include also topics important for judges from the procedural point of view, for example, how to present cases clearly for judges to more easily understand potential problematic points in the decisions and in the claims submitted.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

Considering that many EU jurisdictions have also criminal system of fines for breach of competition rules (bid rigging, cartels) or mixed administrative and criminal systems, it could be useful to include state attorney's office.

7. ***Any further remarks?***

The experience of the CCA in education of judges promoted and implemented as one of the activities from the EU funded projects showed that judges are more inclined to receive specialised trainings from other judges, so the primarily the lecturers should be judges and then other speakers (representatives from the EC, national competition authorities, lawyers) could be also invited. Judicial Academy could be central institution on national level for organization of trainings and workshops. The topics based on this program could be further defined in co-operation with European Commission and national competition authority.

CYPRUS

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

The Commission for the Protection of Competition is aware of the participation of judges in competition law training but is of the opinion that they should receive more training as the said participation was on a small scale and by only a very small number of judges.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

The judges of the Supreme Court should familiarize themselves more with competition law issues. Also the judges of District Courts should receive more training as they are the relevant courts for enforcement of Articles 101 and 102 of TFEU in private actions and they will be the ones that will be enforcing the Damages Directive; also, it is noted that some of the District Court judges are the ones that eventually rise to the rank of the Supreme Court.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

Supreme Court judges should receive more training on the whole spectrum of competition law as they have so far dealt with very few competition cases. District Court judges should receive more training on handling the cases of damages as a result of competition law infringements which will also enable them to learn more on competition law.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Participation in training is costly both in money terms as well as time. Therefore, covering part of the expenses and holding short courses may improve the participation of judges.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

In our opinion specialized courses just for judges may prove to be more attractive to them.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

We would support more the training of judges due to their very important role in creating, through their decisions, the legal framework for the application of competition law.

7. ***Any further remarks?***

The European Commission could encourage by further means the participation of judges in such training, e.g. by offering part of the training locally or in a more decentralized manner that would reduce the cost in both funds and time for the judges.

FRANCE

Different judges are in charge of different aspects of competition law litigation in France:

- For public enforcement matters, antitrust decisions of the French *Autorité de la concurrence* are reviewed by civil judges (the Paris Court of appeals and the *Cour de cassation*) while its merger control decisions are reviewed by administrative judges (the *Conseil d'Etat*);
- For private enforcement matters, the 8 civil and commercial courts have a specialized jurisdiction in France over antitrust matters (Paris, Lyon, Marseille,

Bordeaux, Lille, Nancy, Rennes and Fort-de-France) and their first instance judgments are reviewed by the Paris Court of appeals and, upon further appeal, the *Cour de cassation*;
- Litigation regarding dawn raids conducted by the French *Autorité de la concurrence* is subject to review by the criminal judge (Court of appeals and, upon further appeal, the criminal chamber of the *Cour de cassation*);

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not? *Please consider the different types of action in which European competition law may arise (e.g. control of enforcement decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

In the case of France, the application of European competition law involves more directly civil judges assigned to reviewing enforcement decisions of the French *Autorité de la concurrence*, as well as judges deciding and reviewing private claims.
As part of the continuing legal education for judges, they have access to annual trainings from which they can choose depending on their need or interest.
Besides this minimum requirement, more specialized trainings could be envisaged. The Italian competition authority and the French *Autorité de la concurrence*, together with the Italian Supreme Administrative Court and Italian Judicial Academy, have for example joined forces to offer tailor-made trainings in European competition law to Italian and French judges.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

Training initiatives should primarily target judges directly involved in the application of European competition law to contribute to the effectiveness of European competition law.
Judges in charge of reviewing decisions of the French *Autorité de la concurrence* are not specialized in European competition law or in domestic competition law. They are indeed also assigned with reviewing decisions of other French regulators, i.e. in the energy, securities, telecom and transportation sectors. Their portfolio is therefore larger than just competition regulation itself and encompasses economic regulation in general.
Regular training is in order but cannot supplement a lack of resources for courts, which must cover a broad spectrum of laws and regulations, including but not limited to competition law, whilst being endowed with only finite – and on the whole insufficient – resources.

3. On what subjects, in your view, do judges most need training in the field of European competition law? *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

In the absence of courts whose activity is solely devoted to competition matters and for whom it can be presumed that judges hold *ab initio* the requisite knowledge and expertise of competition law matters, the prime objective is to ensure that judges who occasionally or regularly review competition law cases have undergone a basic training on competition law prior to their appointment.
Going further, complementary training requirements should be based first and foremost on the demands of judges themselves. This was the approach taken for instance in the context of the joint training program referred to earlier in the response to question 1. A questionnaire was circulated beforehand to participants in order to identify the subjects they were most interested in. The questionnaire provided a list of 30 topics and asked each participant to rank them by order of priority ("1: high priority"; "2: medium priority"; "3: low priority"). Doing so was a way to ensure that actual needs of participants would be addressed. The questionnaire was also meant to assess the

participants' level of knowledge of European competition law by asking them to tick the appropriate box: "basic", "average", "good", "excellent" in order to set up tailor-made trainings.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Identifying the right target audience of judges and their specific needs is a critical first step in order to set up tailor-made trainings as illustrated in question 3 above.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

Some level of interaction between judges, competition authorities and members of the private bar to confront perspectives could be beneficial. Participants would be placed on an equal footing and would learn from each other. Such joint training programs would present the advantage of not being unilaterally targeted at judges, which can be an additional incentive for judges to join in the discussions.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

As mentioned in question 5 above, involving other legal practitioners, as well as academics, can foster positive outcomes.

7. ***Any further remarks?***

Secondment of judges in competition authorities can also be an effective way to train them from the inside. There again, it would be mutually beneficial for the judge on secondment and the hosting authority. The experience of the French *Autorité de la concurrence* has been very positive in that regard.
At a European level, establishing a *forum* or consolidating existing *fora* for discussion among judges dealing with European competition law could be envisaged in order to foster consistency in the application of European competition law. This would also provide a welcome contact point for the European Competition Network and allow it to invite judicial representatives to take part in some its work, reflecting judges' role in the overall "chain of enforcement of European competition rules".

GERMANY

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

1 & 2: In Germany practically all competition cases are decided on by specialised courts. Cases concerning administrative proceedings of the NCAs are heard by the same judges who decide on private actions. Thus, a sufficient level of expertise is guaranteed by a steady flow of cases.

Given the rapid development of EU competition law additional training measures are nonetheless welcome. Efforts should be made to direct invitations to seminars or conferences directly to the presidents of the relevant courts, not to the Federal Ministry of Justice. Given the decentralised structure of courts in Germany 'shortcuts' seem necessary to make demand and supply meet.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

3 & 4: Successful trainings for judges have, in the eyes of the Bundeskartellamt, to mind the following points:

- The material provisions of EU competition law and the economics of competition cases are the same throughout the EU. In theory this might pave the way for multi-national trainings with participants from different jurisdictions. Still, given the fact that judges (excepts those from the UK, Ireland and Malta) normally do not use English as their working language, attendance rates will be lower and discussions more difficult than they would be for national programmes.

- It adds to the language barrier problem that the application of the material law and of economics on case level always has to respect the procedural law of each jurisdiction, and even the Private Enforcement Directive will change this only to a very limited degree. Good advice from judges of one jurisdiction will often be without any benefit for judges from another. Thus, the different procedural framework is another strong argument for concentrating on national training programmes rather than on international seminars or conferences.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

Training programmes for judges in Germany deliver the best attendance rates and results when they are set up exclusively for judges. Other parties might be invited as speakers or resource persons but definitely not as participants. The formal and informal peer to peer exchange is, judging from the experience of the Bundeskartellamt, vital for the success of training programmes for judges. That exchange is matter of factly impeded by the presence of any other parties in the judicial process.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

Funding – including the travel expenses of participants – is always an issue in trainings for judges. While NCAs, lawfirms and undertakings have access to several channels of EU competition law knowledge, limited funds should be concentrated on the exclusive training of judges.

GREECE

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

In our view, there is much scope for improvement regarding training programmes for national judges. In Greece, the National Judicial Officers Institute (Greek Judicial School) is in charge of the initial and continuous judicial training of judges and prosecutors. Training courses are divided in two key sections: (a) administrative section, and (b) civil and criminal section. European competition law has recently been included in the curriculum of the administrative section, as a specialized course, but not in the civil and criminal section. In summary:

- Administrative judges (review of decisions issued by National Competition Authority): New judges now receive some training to competition law training already at the Judicial School. This is broadly considered adequate at induction level, bearing in mind the broad scope of the School's curriculum. Judges already appointed in Administrative Courts are not specialized in competition. However, in practice, all competition appeals are adjudicated before four specific chambers of the Athens Administrative Court of Appeals, and thus judges assigned in those chambers specialize in practice on competition law issues. Overall, with regard to administrative judges, emphasis should be placed on continuous education through EU-funded programmes.

- Civil and criminal judges (adjudication of damages actions before civil courts): The judges (new and already appointed) in the civil jurisdiction (first and second instance) do not receive training in the field of European competition law. Furthermore, there are no specialized court/ chambers for the review of damage claims for competition law infringements. Overall, and in view of the anticipated rise in private enforcement actions following the transposition of Directive 2014/104/EE, civil law judges do not receive adequate competition law training and continuous education through EU-funded programmes is a priority.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

In our view, training of civil law judges is a priority. The complexity of damages actions and the lack of specialization in civil courts may be an obstacle to the development of private enforcement.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

In our view, all judges dealing with competition law cases should receive continuous training on the legal and economic developments pertaining to European competition law. The scope of the courses can be broadened, as to include procedural fairness and calculation of fines issues. As regards civil law judges in particular, they could receive additional training for the implementation of the new Directive 2014/104/EU on Antitrust Damages Actions, and particularly guidance for the quantification of harm.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking*

into account the different types of judges who may face issues relating to European competition law.

There is much scope for improving competition law continuous training through EU-funded programmes. In our view, the curriculum and administration of such programmes (mostly undertaken by private entities/contractors) could be better supervised by the European Commission, such as to increase their impact. Currently, certain programmes are not tailored to meet the needs of judges, as training is not sufficiently practice-oriented, but mostly theoretical. There should be increased focus on the practical application (for example through case-studies), in order to make training activities more effective and worthwhile. Effective training methods, such as quality e-learning tools and study materials should also be recommended to be used in order to improve the provision of training. In addition, the Greek Judicial School, as a member of the European Judicial Training Network (EJTN) that co-operates with other European Networks and Institutions (e.g Lisbon Network, ECA etc), could organize more seminars for European competition law in the context of continuous education, in cooperation with the Ministry of Justice.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

N/A. Focus on Judges is considered a priority given the current state-of-play.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

No, we do not think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners.

HUNGARY

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

The GVH together with OECD-experts has organised 17 competition law seminars for national judges over the last ten years. Since 2009 these events have been organised in the framework of the Training of National Judges Programme of the EU. We organise 2 competition law seminars every year for European judges. The number of participants of the seminars varies, but is 30 on average. We invite participants from each EU Member State. The events are held in English. Since 2005 16 Hungarian judges have participated in these events.

Taking into consideration the above, we are of the opinion that an efficient framework for judicial training is being set up to disseminate EU competition law knowledge. Besides the GVH, the Hungarian Academy of Justice provides training events for judges under the auspices of the National Office for the Judiciary. The Academy regularly organises training events for judges, but we have very little knowledge about the content of these events and we do not know if they include training on competition issues. Presumably these training events are more focused on procedural issues.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

2 & 3: In our view, judges involved in first instance court review procedures should be trained to deal with those substantive competition law issues which are also applied by the Hungarian Competition Authority: Articles 101, 102, 106-109 TFEU, mergers, state aid, cooperation between national courts and the Commission, third party action under EU competition law, Regulation 1/2003, EU competition case law of the ECJ. We think that second instance court judges need a similar training objective.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

In our opinion the training of Hungarian judges should be concentrated mainly within the framework of the National Office for the Judiciary, with the involvement of the expertise of the GVH. The reason we think that training should be mainly organised by the National Office for the Judiciary is that Hungarian review judges are reluctant to participate in seminars organised by the Hungarian Competition Authority as the Authority's decisions are reviewed by these very same judges (possible conflict of interest). Hungarian judges may be more receptive to a training programme that is organised by 'their own Academy'. While this may seem a formality, the conflict of interest situation perhaps justifies this recommendation. From a practical point of view, we would suggest that these competition law related training programmes include foreign speakers and experts and are held outside of Budapest. Translation would be preferable. Civil court judges of district and county courts should also be trained in EU competition law, as they may be required to apply EU competition law in the course of private enforcement. They would also need training on the basics.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

Due to the fact that a judicial procedure involves different procedural positions, in our opinion, joint training programmes should be avoided.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

A perspective of an attorney raises different issues and solutions than that of a judge. Nevertheless, we do think that the standpoint of one party may be of interest to the other, and vice versa, and for this reason, we support the idea of inviting the other party as an expert speaker to the panel for a limited time-frame (one or two presentations).

ITALY

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

Italian courts have adequate access to qualified training on the fundamental tenets of EU competition rules. The Italian competition agency considers there might be margins for further improvement, in particular through the provision of tailored programmes to meet specific training needs of different target audiences. Recent legislative developments at national level, such as the setting up of courts for enterprises to hear private antitrust claims and the newly established exclusive competence of administrative courts on state aid disputes, also call for bespoke training initiatives, enabling the courts to face novel challenges and keep abreast with the rapid evolution of antitrust practice.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

Training initiatives should target primarily judges who are directly involved in the application of EU competition rules, such as administrative courts in charge of the judicial review of decisions issued by the national competition agency and the courts for enterprises where antitrust disputes are litigated. Moreover, administrative courts of first instance would benefit from training on EU state aid rules, since relevant disputes now fall with their exclusive remit.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

In our opinion, it is essential to ensure that basic training on competition law continues to be available to judges wishing to familiarize themselves with the topic. Indeed, new members of the judiciary or judges shifting to a court dealing with competition matters might have little prior knowledge of competition law and policy, which is not ordinarily part of their academic curricula or professional background.

While this group of judges needs training on basic notions of competition law, at the same time more specialized judges should have access to advanced training on specific competition issues. For instance, the Italian competition agency has recently organized training projects, with the support of the European Commission, on topics such as co-operation between national courts, competition agencies and the European Commission, or the economics of antitrust law and policy.

According to the Italian competition agency, priority should be given to the training of courts of first instance, as increasing numbers of competition cases will reach them first.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Effective judicial training posits on a careful scoping of the target audience. It is necessary to engage in a thorough fact-finding exercise, to make sure that the most relevant candidates participate in the training initiatives. Once the appropriate audience has been identified, it is important to understand its current training needs. This can be done by combining a bottom-up approach, based on interviews and questionnaires, with a top-down double-check to ensure the consistency and completeness of the training offer.

Training of non-homogeneous groups may lead to differentiated programmes, whereas different options are made available according to the background knowledge of participants, and/or their professional duties. Accordingly, in its recent training projects, the Italian competition agency offered basic and advanced training sessions, and

supplemented joint events with training sessions dedicated exclusively to administrative or civil judges.

Finally, appropriate steps should be taken to facilitate exchange of experiences and networking with colleagues in foreign jurisdictions through the organisation of joint events and training programmes, thus complementing ongoing EJTN initiatives.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

In our opinion, there is a lot to be gained from exposing judges to the extant debate in the wider competition community, including academics, legal and economic practitioners, as well as public enforcers (i.e. the national and EU competition agencies).

However, it is important to reserve some slots for the judges to discuss cases and exchange ideas and experiences amongst themselves, as this might prompt a more frank and open discussion about problematic issues.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

We are generally in favour of involving academics and lawyers.

7. ***Any further remarks?***

The outcome of judicial training in the field of competition law and policy would be significantly enhanced by effective linguistic training, which would facilitate participants' access to relevant training materials as well as enable a more fruitful exchange of experiences with foreign peers.

LATVIA

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

The answer depends on particular matters that the courts might handle. Where judicial review of the Latvian competition authority's (Competition Council – CC) decisions take place, lack of required knowledge cannot be inferred from the quality of judgements adopted. However, where the general courts handle civil matters, we are concerned that lack of competition law knowledge might deter development of private damage claims for competition law infringements. As the CC does not participate in decision making on training of judges, we are not in a position to explain the reasons for lack of more considerable training.

The Latvian Judicial Training Centre is the only institution in Latvia to provide continuing education for judges and court employees. It does so with the aim of strengthening the lawful state and facilitating a uniform understanding of law within the joint European Union legal space (http://ltmc.lv/en).

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

The judges that review decisions of the CC are knowledgeable, however, their supporting staff (clerks that assist judges in their legal reasoning) rotate more frequently and cannot ensure consistency of case law.
It would also be necessary to carry out training in European competition law of judges that review commercial disputes (civil cases). In order to focus training for civil court judges that are numerous across the country, the training, most importantly, should be afforded to judges that review damage claims at the appellate level.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

Administrative courts (review of CC's decisions):

- Economic aspects of European competition law;
- Principle of effectiveness and interaction between EU law and national procedural rules.

Civil courts (private damage claims):

- Calculation of damages;
- Effect on validity of clauses that breach competition rules;
- Competition law system in the EU and basic concepts of the competition rules.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Since for the civil courts in Latvia it is necessary to raise awareness on competition law matters and interaction with civil disputes, general introduction to EU competition law and overall system should become mandatory, rather than elective.

However, the judges that are involved in review of the CC's decisions should be involved in a more dynamic and practical training sessions (e.g. experience exchange with judges from other Members States).

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

It is not clear what benefits could be gained from joint training programmes. If it's aim is to promote communication among the parties, it does not seem appropriate considering status of the judges. Unless the courts themselves consider necessary to promote communication and create common understanding of interested parties in order to increase effectiveness of dispute resolution. The joint training exercises are commonly exploited for unilateral purposes as another forum to indirectly express case related considerations.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

The funds should be used in order to build capacity of courts to deal with EU competition matters, by extending this to other legal practitioners (e.g. private attorneys), would decrease efficiency of the funding. Private practitioners are well educated and mainly work with out-of-court matters and pursue their education in the field according to their employer's needs.

LITHUANIA

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?***

As far as we know, judges in Lithuania receive trainings in the field of European competition law. However, we do not have information about the level and intensity of such trainings and how often do judges participate in them.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

At the moment judges of the administrative courts need training in the field of European competition law the most because they examine complaints regarding the resolutions of the Competition Council.
It is likely that after the implementation of EU Damages Directive the number of private enforcement actions would increase. Accordingly, judges who examine such actions, i.e. judges of the courts of general jurisdiction, will also need adequate training in this field.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?***

From our point of view, application of Articles 101 or 102 of the Treaty on the Functioning of the European Union could be those subjects on which judges need training in the field of European competition law the most because they usually have to assess the application of these articles.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?***

As it was mentioned before, we do not have much information about the trainings for judges in the field of European competition law, therefore it is hard to answer a question how they could be improved. However, we think that trainings for judges who handle competition law cases, i. e. judges of the administrative courts, should include practical examples and analysis of the case law as much as possible.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

Joint training programmes could help judges and other parties in the judicial process to achieve a better understanding of each other. However, separate training programmes could be more specific and oriented only to the needs of one group, e. i. judges or, conversely, other parties in the judicial proceeding. Separate training programmes could also reduce the risk that judges are biased in handling specific cases. Therefore, both of the programmes have their pros and cons. Which one to choose depends on the topic, the duration and other factors of the training.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

Yes, we think that such programme could also be open to persons directly assisting judges in researching issues before the court and in writing opinions.

POLAND

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not? Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.***

In Poland, all judges receive their basic training from the National School of Judiciary and Public Prosecution (*pl. Krajowa Szkoła Sądownictwa i Prokuratury*). Within the course of this educational programme, they get acquainted with different branches of the law such as criminal, administrative, civil, commercial or international civil law. Unfortunately, the programme is missing a module dedicated to competition law and its related fields such as economics of competition law.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

In Poland, the decisions of the President's of the Office of Competition and Consumer Protection (UOKiK) may be appealed to a civil court - the Court of Competition and Consumer Protection (SOKiK). SOKiK operates as a division of the District Court in Warsaw, which rules on competition and consumer protection cases. Appeals against its judgments are recognized in the Civil Division of the Court of Appeals. Both courts are common courts of law, yet with judges specialized in competition and consumer protection. That is why, in our opinion, these judges should be the main target of training programmes on European competition law.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

In UOKiK's view it would be useful to organize trainings that would focus on practical case studies. UOKiK's representatives have met with SOKiK's judges and have discussed among others possible subjects for judicial training. The judges expressed their interest in a comprehensive manual, which would provide guidance on adjudicating, especially in private enforcement cases. Judges explained that they would greatly benefit from guidance on market definition, assessment of market power of an entrepreneur, examination of economic evidence, fining methodologies and policies applied by competition authorities/courts, merger control and quantification of harm.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

In UOKiK's view, a module on competition law should be incorporated into the basic training programme for judges, which should also provide for a study of the case law of the EU courts pertaining to competition law. Additionally, during the performance of their function, judges adjudicating in competition cases should have access to continuous training in this field. Polish judges expressed their interest in such training but requested the workshops be scheduled well in advance, so that they would not overlap with court proceedings.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

In our opinion this could work well in practice. Polish judges expressed their interest in having trainings organized by academia and gathering representatives from the judiciary as well as from the national competition authority.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

In its contacts with UOKiK the Polish judicial community voiced its interests in the trainings gathering judges and participants from the national competition authority. It seems that such trainings could be a good start of the programme. However, later on it could be worth considering opening them also to legal practitioners.

PORTUGAL

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not? Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.

Answer: No. In what regards the field of EU Competition Law, the initial general training program for national judges (and public prosecutors) used to include a short-term module on EU Competition Law, which has been removed since the establishment of the Competition specialized Court in 2012. Nowadays, national judges willing to deepen their knowledge in this field may opt for an optional short-term course within the initial general training or a 2-day module within the continuous training program. Besides those options, there is a 2-day training course for judges in competition law made available by the European Institute of the law School of Lisbon. In any case, one can say that academic training for judges in the field of EU Competition Law is still kept on a very basic level and knowledge progresses mainly on the basis of professional practice.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

Answer: As a matter of priority, judges and public prosecutors assigned to the newly established Competition specialized Court. Notwithstanding, training of judges and public prosecutors assigned to the civil and penal courts should not be disregarded, because those are the national courts with jurisdiction within the field of private enforcement of competition law and to authorize and accompany the Portuguese Competition Authority in case of inspections/dawn raids, respectively.

3. On what subjects, in your view, do judges most need training in the field of European competition law? Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.

Answer: It should be mandatory for judges and public prosecutors assigned to the Competition specialized Court advanced training on EU Competition Law, including economics for competition law. In what regards judges and public prosecutors assigned to civil and penal courts, training activities should be rather oriented for basic knowledge on EU Competition Law fundamentals, private enforcement and exercise of powers of inquiry, inspection and seizure.

4. How would you improve the provision of training for judges on European competition law in your jurisdiction? Please give concrete examples,

taking into account the different types of judges who may face issues relating to European competition law.

Answer: Please see answer to question 3 above. Moreover, short or long term advanced training activities could be promoted namely within the Centre for Judiciary Studies and Law Schools.

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

Answer: National judges and public prosecutors may benefit from the interplay with other parties in the judicial process, namely lawyers and experts from Competition Authorities, which could enrich the debate and exchange of experiences.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

Answer: Yes, in particular to public prosecutors.

ROMANIA

See separate document below.

SLOVAK REPUBLIC

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

The Antimonopoly Office of the Slovak Republic (hereinafter the „Office") does not have much information about trainings of judges in the field of competition law. We are not necessarily informed about all the activities with regard the training of judges and therefore answers to these questions are based only on the informal information we have. Please also note, that providing this information, this should not in any case be understand or considered as express of lack of knowledge on the side of courts.

We do not think that judges receive enough training in the field of European competition law. We may say that the trainings that took place in past were adequate, and some of them highly appreciated (as we have also learned from judges themselves). However, it would be useful to repeat trainings from time to time and also to provide trainings with regard the new developments and phenomena in the field of European competition law. Concerning the fact that the panels of judges who review competition law cases may also change, the repetition of trainings will be always useful.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

The Regional Court in Bratislava and Supreme Court of the Slovak Republic are the first instance and second instance courts that review the decisions of the Office. Therefore, the training should be addressed to the judges of the administrative collegium of these courts. It might concern from app. 2 to 5 panels of judges at these courts. However, should it be the case, it is always necessary to consult the court, as the agenda of the panels might be subject to changes. Please note that the panel consists of 3 judges.

Another court is the District Court of Bratislava II which is the court of competence to handle the actions for damages for infringements of competition law. We are not aware of the number of judges that have these kind of matters on their agenda. However, we think that these judges had very little training in the field of competition law in the past.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

Since judges that review the decisions of the Office (that is the judges of Regional Court in Bratislava and the Supreme Court) review also other different administrative decisions of other authorities and regulators, their time to self -study latest developments in this field or jurisprudence is rather limited. It also seems that their possibilities to participate in international/European forums for judges to exchange the experience with judges from other EU countries is also limited.

Therefore, maybe more in depth case analysis, more detailed training on specific abuse of dominant position infringements, economic approach, evidence in cartel cases, cooperation agreements, vertical restraints, responsibility for competition law infringements, would be always a topic.

Also specificities of sanctioning systems/methodology on setting fines based on value of sales understanding principles could be useful. Sanctions for competition law infringements may sometimes seem to be heavy, however, different measures within methodology were introduced (by European Commission and competition authorities- such as value of sales criterion for setting the basic amount of fine) which should reflect the "economic" nature of the infringement. Since courts in Slovakia have the power to reduce the sanction that was imposed by competition authority (but the principles on which the reduction is based do not have to necessarily follow the same criteria). Thus, it can lead to inconsistent practice when comparing different cases.

The Supreme Court of the Slovak Republic also reviews the actions against inspection decisions and the process of inspections conducted by the Office, the training in this area might be useful in particular where the powers of European Commission and the Office are the same/similar.

For the judges of the District court of Bratislava II, a training with regard the general overview of competition law infringements might be useful as well as on the issues concerning damages actions, especially possibilities on quantification/assessment of damage (regarding the EC´s document on quantification of harm).

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

We think that more targeted, small group trainings turned out to be more effective. The planning the date of the training sufficient time in advance is necessary, since judges have scheduled hearings so planning is key to have the possibly highest number of participants involved in training.

Involvement of the judges as speakers- trainers could be of an advantage.

Trainings in native language are also more preferable, not all the judges speak foreign language at the level to be able to be trained in that language (as from what we have heard from some of the judges).

5. ***What do you think of joint training programmes for judges and other parties in the judicial process?***

If by other parties is meant private law practitioners, we do not think this is necessary or suitable. If the training of the judges should be effective, it should be targeted to this one group. Assistants of the judges could be included.

6. ***Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?***

We are not aware of such needs. However, we would always be interested if there was a possibility to send also a few participants from the Office, e.g. new colleagues.

SWEDEN

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

We are not familiar with the details of the training received by Swedish judges. All cases involving the competition authority as a part and most private actions of any significance concerning article 101 and 102, or the national equivalent rules, are however tried before specialized courts. It is our understanding that the judges at the specialized courts are receiving training in the field of European competition law. Other aspects of European competition law, besides from article 101 and 102, and some private actions concerning the application of article 101 and 102, might be tried before various courts. To our knowledge most judges that are not working at the specialized courts will receive no, or limited, training in the field of European competition law.

2. ***Which judges and/or judicial staff do you think need training the most in the field of European competition law?***

From the competition authorities' perspective it is most important that the judges and economic experts, which are always a part of the court in article 101 and 102 cases, at the specialized courts receive adequate training.

3. ***On what subjects, in your view, do judges most need training in the field of European competition law?*** *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

There are, to our understanding, very few cases in Swedish courts concerning other aspects of European competition law other than article 101 and 102 related issues. There might however be more cases in the administrative courts addressing issues related to state aid and regulatory legislation than we are aware of.

From the competition authorities' view it is therefore most important that the judges in the specialized courts receives adequate training concerning article 101 and 102. It might however also be relevant to provide training to the judges at the administrative courts in the field of state aid and regulatory issues.

4. ***How would you improve the provision of training for judges on European competition law in your jurisdiction?*** *Please give concrete examples, taking*

into account the different types of judges who may face issues relating to European competition law.

See the answer to question 3 above.

5. ***What do you think of joint training programs for judges and other parties in the judicial process?***

We think that it is important to safeguard the independence of the courts and judges. It might therefore be difficult to provide training programs involving other parties. If other parties are involved, the training program should be open for all parties involved in court trials relating to European competition law.

6. ***Do you think that the European Commission's funding program "Training for Judges" should be open to other legal practitioners and, if so, which?***

See the answer above to question 5.

UNITED KINGDOM

See separate document below.

ROMANIA

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ROMÂNIA
CONSILIUL CONCURENȚEI

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Dear Mr. Coughlan,

Please find below our answers/observations to the questions sent to us by e-mail on 7 July 2015.

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not? Please consider the different types of action in which European competition law may arise (e.g. control of regulatory decisions, private actions, state aid-related measures) and the different degrees of specialization of courts.

Generally, yes. The judges in Romania benefit from different training courses in the field of European competition law, organized both locally (*e.g.* through the National Institute for Magistrates – *Institutul National al Magistraturii* in Romanian) and abroad.

However, the level of knowledge in the competition field varies between the experienced judges and the judges dealing recently with competition files in their activity. This is because, in Romania, most competition cases are judged by the Bucharest Appeal Court and the Romanian Supreme Court of Justice. The newly promoted judges to these higher courts can only have theoretical competition knowledge, neither dealing directly with competition files at the lower courts or having the practical background acquired from review of Competition Council's decisions

Also, it is noteworthy that the Romanian judges have a better understanding of the issues raised in files regarding cartels and economic concentrations, than in the area of vertical restraints or abuses of dominant positions. This is because of the frequency of certain types of cases brought before the Romanian courts of justice.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

Firstly, the judges which should receive training in the field of European competition law are those working in the administrative and fiscal departments of the Bucharest Appeal Court and the Romanian Supreme Court of Justice.

Secondly, the judges from the tribunals and the general courts (*judecatorie* in Romanian) dealing with civil and commercial law files should benefit from such trainings considering that they judge cases on procedural breaches of the competition law and, also, the possibility for them to be promoted in the future to the Bucharest Appeal Court and, subsequently, to the Romanian Supreme Court of Justice.

Thirdly, it would be useful if the assistant magistrates (*magistrati-asistenti* in Romanian) from the Romanian Supreme Court of Justice and the Romanian Constitutional Court would attend such courses in the field of European competition law considering their involvement in competition files.

3. On what subjects, in your view, do judges most need training in the field of European competition law? Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.

In our view, for the judges from the Romanian Supreme Court of Justice and the Bucharest Appeal Court, which already have some experience in the competition field, the trainings should focus on the newly adopted competition legislation (when the case may be), the recent jurisprudence of the European Court of Justice and the General Court and on the practice of the European Commission concerning vertical restraints and abuses of dominant positions.

As regards the other categories of judges and judicial personnel mentioned in our answer to question 2 above, general trainings on European competition law would be more appropriate.

Please also observe our answers to questions 1 and 2 above for other distinctions among different types of judges and/or different levels in the Romanian judicial system.

4. How would you improve the provision of training for judges on European competition law in your jurisdiction? Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.

We believe that the following types of trainings/courses/activities in the field of European competition law would improve the understanding and performance of the Romanian judges:

i. case studies presented by the European Commission on different occasions;

ii. possibility to participate in the hearings of the European Court of Justice and the General Court and to the preliminary rulings of the European Court of Justice in competition cases;

iii. internships at courts of justice specialized in competition from other EU countries;

iv. seminars and presentations held by the European Commission at the National Institute for Magistrates or other institutions in Romania;

v. seminars, presentations and conferences held by Romanian and other EU universities.

5. What do you think of joint training programmes for judges and other parties in the judicial process?

In principle, joint trainings would have the aptitude to provide participants a broader view on the discussed matters.

6. Do you think that the European Commission's funding programme *"Training for Judges"* should be open to other legal practitioners and, if so, which?

No, the European Commission's funding programme *"Training for Judges"* should remain reserved to the judges.

7. Any further remarks?

We do not have any other comments on the discussed matters.

We remain available for any other questions regarding the above.

Best regards,

Bogdan M. Chiritoiu, *President of the Romanian Competition Council*

UK

CMA
Competition & Markets Authority

John Coughlan
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From: Tony Penny
Head of International

11 August 2015

BY EMAIL

Dear Mr Coughlan,

Study for DG Competition on Judges' training needs in European Competition Law

Thank you for your email to Alex Chisholm (which has been passed to me) inviting the CMA to participate in your consultation regarding judicial training requirements at national level.

I understand that you are in close contact with the UK's Competition Appeal Tribunal (CAT) who are partnering you in the project. They are better placed to comment directly on judges' training needs than the CMA, but as a "user" of judicial services in the UK we can offer some observations based on our experience as a party before the courts.

You will be aware of the UK's comprehensive competition law framework which provides for private as well as public enforcement. In the area of public enforcement, the CMA can be required to defend its decisions on appeal before the CAT. As regards private enforcement, the UK framework allows for "standalone" and "follow-on" actions, which can be heard in the High Court and/or the CAT. While the CMA may monitor the progress and outcome of these cases (and may sometimes intervene in them), it is not a party to them. Further appeals of both public and private enforcement cases can be heard in the superior courts (Court of Appeal, Supreme Court).

We are extremely fortunate in the UK because the quality and expertise of our competition judges is very high. Not only do we have a specialist tribunal with multi-disciplinary expertise (the CAT) but the standard in the High Court and superior courts is also extremely high. These non-CAT judges, whilst not specialising only in competition cases, are highly adept at applying competition law when necessary as well as being able to bring to bear their expertise and experience in handling other litigation, for example in complex commercial disputes.

We have a flourishing and expert competition law bar from which judges can be selected. In recent years former members and staff of the competition authorities have also joined the specialist tribunal.

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As such, it is our view that the competition law judges in the UK are well versed in the field of European competition law and are well placed to deal with the wide range of legal and economic questions that can arise in competition law cases.

I have a couple of further and personal observations in respect of two of the questions in your consultation:

First, with respect to improving the provision of training for judges (Q4): as I understand it, in some jurisdictions lawyers are trained to be judges from a very early point in their career. The UK tradition, on the other hand, is to select judges from the bar meaning that they have considerable practical experience as advocates before the courts, invariably in specialised areas such as competition, before taking on a judicial role. This experience is, as we see it, a very valuable component of a judge's development, enabling him or her to among other things develop a good understanding of the challenges facing the advocates who appear before them. While less familiar with the activities and training provided by the Association of European Competition Law Judges, I would expect that UK judges are well placed to share, through the events and activities of the Association, their experience and expertise with their judicial counterparts from other jurisdictions (assuming of course that they do not already do so).

Second, Q6 asks if the European Commission's Training for Judges funding programme should be open to other legal practitioners. I am afraid that I am not familiar with the set-up of the programme, but it strikes me that if it is not already open to members of the bar who appear in court before competition law judges, there would be merit in opening it up to them as well. Given, as indicated above, that members of the UK competition bar can and do become judges, access to such training at an earlier stage can both assist their potential career development but also give them a useful insight and understanding of the role of a competition law judge and the issues facing them. Likewise, as I mentioned above, as former members and staff of competition authorities become judges extending training to potential candidates from the authorities might be a very constructive step. One would equally expect that providing access to this training to lawyers in other jurisdictions would also be informative.

I hope this response is of assistance to the study.

Yours sincerely

Anthony Penny

Tony Penny
Head of International, Competition and Markets Authority

A.2.6.3. Consultation of lawyers in private practice

The research team also consulted lawyers in private practice on the same set of questions as the national competition authorities. It identified associations specifically for competition counsel (as distinct from associations for competition law in which both practitioners – including judges - and academics are active) in at least eight Member States (Austria, Belgium, Czech Republic, Germany, the Netherlands, Poland, Spain, UK). It asked these associations to respond to the same set of questions as the national competition authorities. For the remaining Member States, it circulated an online questionnaire to individual practitioners with similar questions in order to elicit an aggregate appraisal of their views of judges' training needs. It received answers from the *Studienvereinigung Kartellrecht* (Austria and Germany), *Círculo de Advogados Portugueses do Direito da Concorrência* (Portugal) and the *Asociación Española para la Defensa de la Competencia* (Spain). It also received a further 50 responses to the survey from individual lawyers in private practice.

A.2.6.4. Responses of associations of competition lawyers

AUSTRIA & GERMANY: *Studienvereinigung Kartellrecht*

1. ***In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law? If not, why not?*** *Please consider the different types of action in which European competition law may arise (control of regulatory decisions, private actions, State aid-related measures) and the different degrees of specialisation of courts.*

Preliminary remark: Studienvereinigung Kartellrecht eV is an association of German speaking lawyers admitted to the bar and specializing in competition law. Representatives of the judiciary are not members of our association. Our observations are thus necessarily both, indirect and incomplete. Our answers reflect the impressions informed outsiders have gathered with respect to training of judges in competition law.

Answer:

Germany: In our perception Germany lacks a systematic approach regarding training in the field of EU competition law. It cannot be expected that a judge newly assigned to a chamber or senate dealing with EU competition law matters, has ever had any dealings with this subject matter before. Nor is there any systematic training offered after he acceded to the post. The German judiciary system expressly relies on "generally" qualified judges who, according to the judicial administration, are in principle capable of dealing with any type of cases.
Much, if not all, is therefore left to the individual initiative of judges. Our association is aware, for instance, that judges at an appellate level participated in seminars with competition economists. A number of judges also participates at seminars and meetings held by our association. The Academies for Judges (Richterakademien) operated by the German Länder hardly offer any programs with respect to competition law. A small number of German judges participates in activities of the European Association of Competition Law Judges, but they are hardly those in need of training.

Austria: Also in Austria the judiciary system relies on generally qualified judges and to a large extent on the initiative of the individual judges. However, in Austria the question of training in European Competition Law depends on the kind of competition law question that may arise, on which court is competent to handle the matter and on the availability of budgets for trainings.

Judges at the Austrian specialised Cartel courts (Higher Regional Court of Vienna sitting as Cartel Court as well as Austrian Supreme Court sitting as Cartel Court of Appeals) are competent for the entire public and private enforcement of Art 101 and 102 TFEU except the handling of damage claims. Judges at these courts usually opt for specialised competition law conferences and seminars and can in general benefit from a budget available for participation in national and international events of that kind.

As to judges at Austrian commercial and ordinary civil law courts mainly competent to deal with private damage claims and questions of vertical restraints in distribution law litigations a more systematic training is merely available during the training for candidate judges via a high-profile seminar available for all trainee judges in the district of the Vienna Higher Regional Court. The half-day training is held by the Federal Cartel Prosecutor together with either a Supreme Court judge of the Cartel Court of Appeals or a judge of the Austrian Cartel Court. We understand that this training is or is already about to be also offered in all Austrian Regional Court Districts. Apart from this offer, as in Germany, training depends on the initiative of the individual judge.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

Germany: At those regional courts hearing competition law cases, cartel matters (encompassing most EU competition law matters) are assigned to individual chambers (based on specific schedules of competence, Geschäftsverteilungspläne). The same applies to those senates hearing competition law cases at the appellate level. We consider these judges to be those benefitting most from systematic training in the field of EU competition law.

Austria: Reference is made to the comments under Question 1 above. Thus, there is room for a more systematic approach for training in EU competition law in particular in the field of judges competent for private damage claims at ordinary civil courts and specialised commercial courts.

3. On what subjects, in your view, do judges most need training the field of European competition law? *Please distinguish if appropriate between different types of judge and/or different levels in the judicial system.*

Germany: In our view there is a need for basic training in substantive EU competition law, in particular Articles 101 and 102 TFEU, and a specific need to prepare judges to deal with the increasingly economic aspects of applying this law. This applies to both, the regional court and the appellate level.

Austria: Again, reference can be made to the answers to Question 1. and 2. As in Germany, particular emphasis should be given to trainings regarding competition economics.

4. How would you improve the provision of training for judges on European competition law in your jurisdiction? *Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.*

Germany: We would propose to offer at least 2 modules. The first module should offer a systematic introduction into those areas of EU competition law which are most likely of relevance for judges occasionally dealing with the matter, i.e. the concept of restrictions of competition, the legal exception in Article 101 (3) TFEU, the use of Block Exemption Regulations, effect on trade between Member States, frequent types of abuse of dominance. The second module should deal specifically with the use of economic concepts in applying EU competition law, in particular with respect to efficiencies under

Article 101 (3) TFEU, foreclosure effects of vertical restrictions and exclusionary abuses, and market definition.

Austria: The 2 modules proposed for Germany are also fine with Austria.

5. What do you think of joint training programmes for judges and other parties in the judicial process?

Although we would consider joint training programs to be fruitful, the specific concept of judicial independence calls, in our view, for training programs specifically targeted to judges.

6. Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?

Given the specific need for a systematic training of judges and the numerous offers available to practitioners, we prefer those funds to be used for judges only.

PORTUGAL: *Círculo dos Advogados Portugueses de Direito da Concorrência*

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law?

Competition law practitioners consider that judges usually do not get adequate training in the specific field of European Competition Law, primarily because they do not have such specific adequate training in competition law issues in general before joining the court.

There is insufficient sensitivity to the area of competition law in general, and we feel that even the specialized Tribunal da Concorrência, Regulação e Supervisão (Competition, Regulation and Supervision Court - "TCRS") could benefit from additional support in terms of continuous and comprehensive competition law training.

In fact, some training is provided to judges after joining the TCRS, in limited terms. This is mainly provided by officials from the Portuguese Competition Authority ("PCA").

Moreover, judges from the Tribunal da Relação de Lisboa (Lisbon's Court of Appeal - "TRL"), where appeals concerning decisions by the TCRS may be filed, are generally perceived as judges with a rather limited knowledge of the substantive issues of competition law. The TRL tends to rely on first instance decisions and it does not seem to be fully familiarized with such complex issues.

Finally, judges at civil and administrative courts deal with cases such as private actions or cases regarding State aid. The decisions issued by those courts have confirmed that, in general, these judges have not had any prior contact with competition law and that they may be not fully acquainted with the specific and complex nature of such are of law.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

The judges from the first instance civil and administrative courts are the ones who need training the most. Secondly, in terms of priority, are the judges at the TCRS, and thirdly, the judges at the TRL.

3. On what subjects, in your view, do judges most need training the field of European competition law?

- Antitrust procedure and, in particular as regards horizontal and vertical agreements
- Merger control procedure
- Substantive competition law
- State aid (in particular as regards administrative courts judges)

4. How would you improve the provision of training for judges on European competition law in your jurisdiction?

Firstly, training for judges should mostly rely on the experience of other independent practitioners and academics rather than of the PCA officials (the PCA's training is of course welcome, but more opportunities should exist for practitioners and academics to provide training).

Secondly, the Portuguese judicial system should stipulate that specialized courts be composed of specialized judges receiving proper, constant and comprehensive training, from all knowledgeable parties. Also, the period during which these judges with competition law training remain in the specialized courts should be extended.

Thirdly, adequate means should be provided for the purpose of improving the judges' participation in a permanent forum of judges from all Member States. This would contribute to the exchange of knowledge and experience in the field of competition law. Also, regular training and participation in conferences for judges should be promoted, with the involvement of other parties such as private practitioners and university lecturers.

5. What do you think of joint training programmes for judges and other parties in the judicial process?

Joint training programs for judges and other parties in the judicial process are considered useful, as they have the virtue of allowing for the sharing of a plurality of views, rather than confining such training to the same people and/or entities.

6. Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?

The programme "Training for Judges" should also be open to lawyers and trainee lawyers.

SPAIN: ***Asociación Española para la Defensa de la Competencia***

1. In your opinion, do judges in your jurisdiction receive adequate training in the field of European competition law?

In general terms there has been quite a number of training programmes for judges, organized by different Spanish institutions. Beginning in 2004, the *Consejo General del Poder Judicial* ("CGPJ"), main governing body of Spanish Judges, started training programs on European Competition Law, with funding from the private Fundación Rafael del Pino. Since then, there has been training programs organized by the CGPJ, from their own funding, and with EU funding mostly in the "Escuela Judicial" (training centre for judges located in Barcelona) at least once a year, with quite some attendance from Spanish judges, and also in the latter case judges from other jurisdictions. The

University of Valencia has recently joined the organization of these training programs, with EU funding (e.g.: the 2015 session was organized in Valencia).
One important issue should be coordination and analysing the different legal issues and matters that different jurisdiction have to face. i.e. it is very different the typical issue that a civil judge may have to face, than those addressed by commercial judges, or even from an administrative law point of view. This also concerns the topics they may be called to examine.
One of the most complex areas is private litigation in state aid cases. There could be significant private and most certainly judiciary application of EU law in this field, but there is no training whatsoever of judges in this area, and even the EU Commission has yet to believe on the importance of such a private and even general application of state aid by the judiciary.

2. Which judges and/or judicial staff do you think need training the most in the field of European competition law?

The training has been mostly addressed to judges of different courts, first instance and appeal courts mostly. And this is the correct way. Secretaries or officials of courts shall not be called to deal with specific competition related issues. They may have to face issues of a general order and in those cases the directions may be issued by the judges.
It may appear with further application of competition litigation that there are areas to cover in the future for training other judicial staff.

3. On what subjects, in your view, do judges most need training the field of European competition law?

In Spain we have four jurisdictions, civil, criminal, labour and contentious-administrative. Within the first one, civil, there is a specialized area, which is the commercial field, where the impact of competition law is more generally felt.

i) The Civil jurisdiction in general terms may be called upon to deal with damages from follow-on actions or most likely with competition law as a defence and quite likely with the consequences of annulment of contract provisions or even the entire contract. This specific area should be analysed and covered in future training and where guidance from both the EU Commission and the judiciary should be achieved.

ii) Commercial specialization, within the civil jurisdiction, is called upon to deal in particular with competition issues in stand-alone cases (affecting application of arts. 101 and 102 TFEU). The judges in commercial courts would be at the forefront of competition application. Attendance to training session on EU Competition Law should be mandatory for these judges. There is a feeling that quite a number of those judges have attended sessions or have acquired a degree of knowledge. They should have a specific and in-depth training on competition issues.

In particular, we believe the following topics should be added to discussion between judges from the commercial specialization:

- discussion of coordination of claims from different levels of the supply chain and avoiding contradictory judgments (particularly in different Member States) in accordance with arts 12 and 15 of the Directive.
- Consideration of the use of disclosure and guaranteeing confidentiality in competition claims.
- Use and assessment of economic (and other) evidence in relation to damage, pass-on and consequential loss of sales.

iii) Criminal jurisdiction might face competition issues but not very common.

iv) Labour jurisdiction may face some competition issues but is far from normal.

v) Administrative review and appeals are dealt by a specialized jurisdiction contentious-administrative as in a number of EU member states. This jurisdiction may be called not only to deal with reviewing administrative application of competition cases, but it is a likely issue that competition questions may be raised in court. There is a need for special training on EU Competition Law in this jurisdiction and to understand the sort of cases likely to be dealt with and the limits of the jurisdiction itself.

The appeal court system in Spain remains separated in those jurisdictions up to the Supreme Court. Moreover, what is valid for first instance is valid for appeals court and the only difference would be for the Supreme Court that given the experience of the judges there would be difficult to prepare some training for them.
At the forefront of the training should be commercial judges followed by judges in civil and contentious-administrative jurisdictions, both of first instance and appeal. It would be helpful to design and harmonize general and specific programmes for such training.

4. How would you improve the provision of training for judges on European competition law in your jurisdiction?

For commercial judges there should be a need to prepare special programmes for training them and to seek fora with judges from other member states to solve or at least address certain common issues.
It would also be convenient more coordination between different institutions and a planning covering at least four years.

5. What do you think of joint training programmes for judges and other parties in the judicial process?

No doubt it would be useful and instructive for all participants. But judges may be reluctant up to a certain point and there is a certain logic in it. The non-judges participating have to be very careful.

6. Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners and, if so, which?

Yes, as mentioned with some caution to private practitioners.

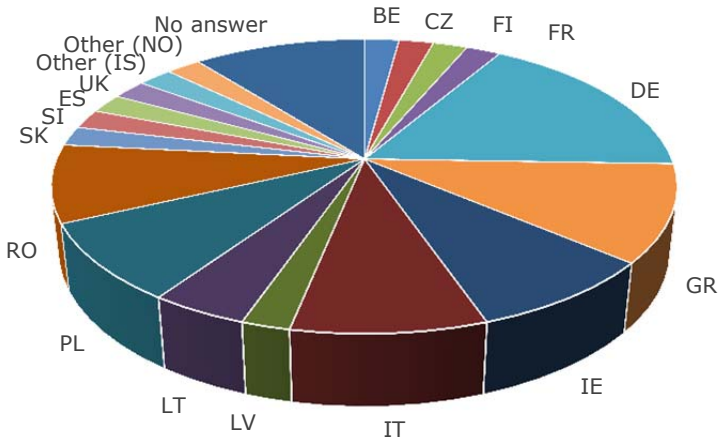
7. Any further remarks?

The programme for funding has to seek a rationalization of the different sources of training and to establish certain "methods" in order to achieve some improvement. The creation of fora where judges and up to a certain point other practitioners may exchange views is important.
Training on where and when seek the intervention of "amicus curiae" is very important. Also linkage when looking at similar problems or issues. Likewise, there should be a specific need to cover preliminary references to the EUCJ. Also, the EU Commission should carefully examine both institutions in relation to private application, as well as the assistance it can give to national judges in order to further competition application.

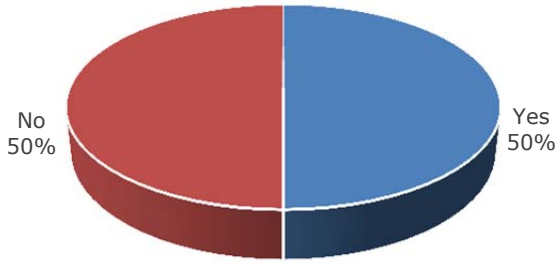
A.2.6.5. Responses to the survey of individual lawyers

The online survey was sent to ERA's own database of competition lawyers. 50 private practitioners responded.

Which European Union Member State do you belong to?



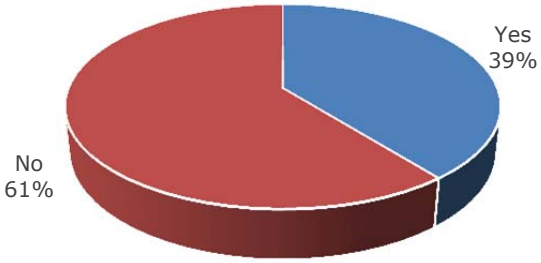
In your opinion, do judges in your jurisdiction receive adequate training in control of regulatory decisions?



If not, why not?

- *There is no specific training related to this matter as most trainings are of more general nature.*
- *However, the quality of the judgments heavily depends on which court has jurisdiction.*
- *Usually they don't receive any adequate training at all.*
- *Not part of the general curriculum.*
- *I am not aware of any training.*
- *The judges must have a background of the economics and the specific aspects of the regulated industries.*
- *I believe that judges must first become lawyers and must have a specialisation*
- *Very little, if any, training. It is ad hoc and not systematic. It usually only involves they attending, voluntarily, courses, conferences or lectures on the topic.*

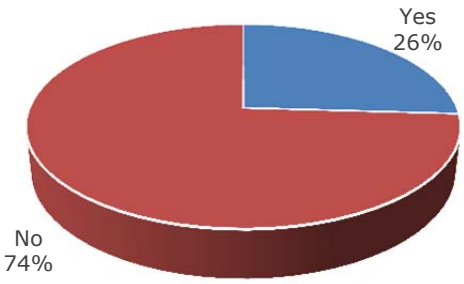
In your opinion, do judges in your jurisdiction receive adequate training in private actions?



If not, why not?

- *There is no specific training related to the private enforcement of the competition law as most trainings are of more general nature. However, there are not many cases pending so far as the private enforcement of the competition law is not broadly used.*
- *I am not aware of any training they receive in this respect.*
- *They don't receive any adequate training.*
- *I am not aware of any training.*
- *Claims are based on ECJ rulings, directive has not implemented*
- *There is a huge lack of precedents and competition law is regarded as very technical and almost exclusively an attribution of the competition authority.*
- *It is difficult to ensure in Latvia (have no teachers)*

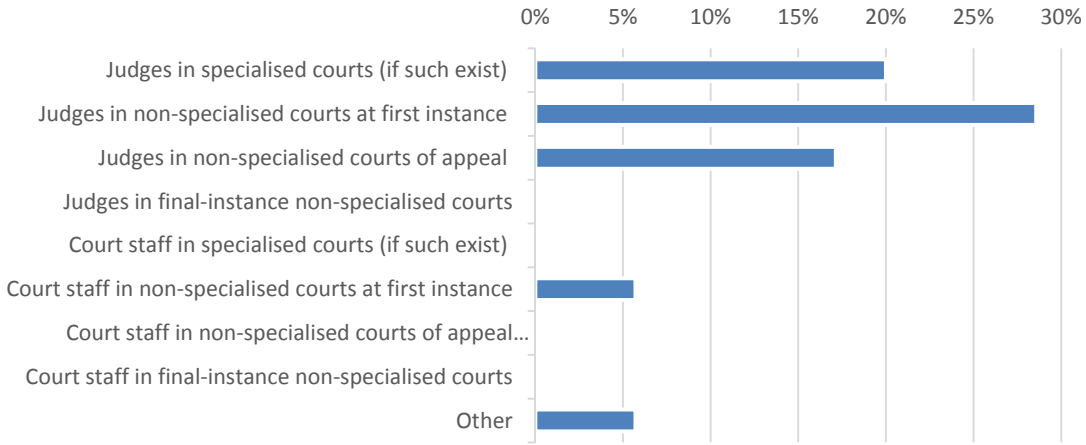
In your opinion, do judges in your jurisdiction receive adequate training in state aid-related measures?



If not, why not?

- *There is no specific training related to this matter as most trainings are of more general nature.*
- *I am not aware of any training they receive in this respect. I assume that most judges hardly ever are exposed to issues of state aid law, i.e. that is concerns a very marginal volume of their workload.*
- *They don't receive any training.*
- *They are not familiarized with legal aid measures and they rarely recommend such measures to parties.*
- *Not part of the general curriculum.*
- *I am not aware of any training, state aid issues are totally foreign to many.*
- *The preparation lacks mostly at level of the recovery of State aid measures*

Which judges and/or judicial staff do you think need training the most in the field of European competition law?

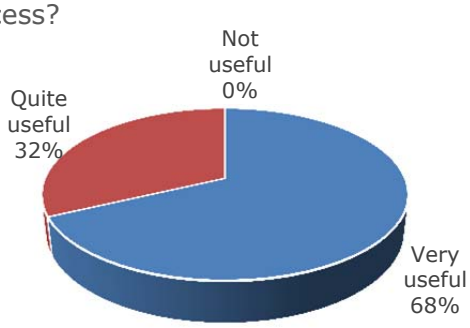


How would you improve the provision of training for judges on European competition law in your jurisdiction? Please give concrete examples, taking into account the different types of judges who may face issues relating to European competition law.

- *To create European-wide training program. It does not make sense to have national training sessions. We need joint training sessions of judges and practitioners from all EU countries in order to establish unified interpretation of the EU law in all concerned countries.*
- *I am not sufficiently familiar with the training they have to make any appropriate suggestions.*
- *The Court of Appeal in Dusseldorf has specialized decision-making bodies that do not need extra training. Other Court of Appeal might benefit more from trainings. The obvious would be that judges from the Court of Appeal in Dusseldorf provide the training.*
- *By following seminars, learning foreign languages at a very good level, giving them different bonus, traveling each year abroad and cooperating with other judges of other european countries.*
- *I would increase the number of trainings including European legislation in this matter and its application with priority.*
- *Making competition law a part of the regular curriculum of the study of law.*
- *Greek Judges should get training on Competition law through regular familiarisation and update on Competition law issues*
- *(1.) organize more short, topic specific trappings instead of long sessions covering all aspects of competition law; (2.) involve local lecturers who have substantial practical expertise in handling competition cases before local courts; (3.) more events involving discussions instead of smooth lectures.*
- *The judges need continuous training, given the continous evolution of the competition law and practice. In addition, the courts would need specialized assistance, for instance in ecomomic matters.*

- *I really consider that the training for judges on European competion law should be organized together with the other parties involved in judicial system.*
- *Competition List judges in the High Court (Ireland) as well we judges hearing competition law prosecutions need to know about competition law and economics as well as how to interpret arguments by experts (particularly, economists) but also to understand that witnesses from competition agencies often have an interest in the outcome and are not impartial*
- *It would be useful to improve the preparation of judges regarding key economic concepts like the SGEIs.*
- *Applying European Commission courses*
- *Roll out the existing pragramme to a wider pool of judges*

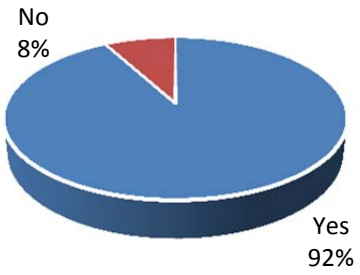
What do you think of joint training programmes for judges and other parties in the judicial process?

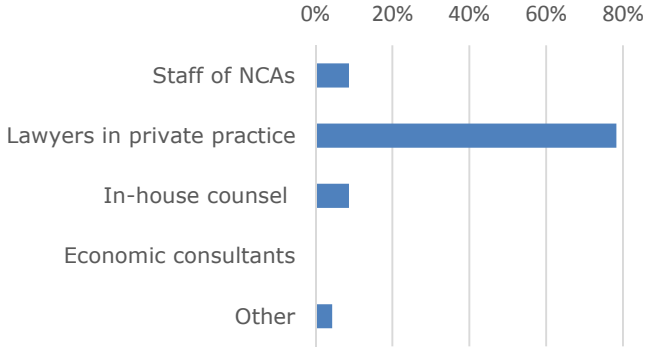


Comments:

- *Judges and Lawyers*
- *It will always useful if judges and the bar understand better how and why each party in the judicial process acts.*
- *These kind of programmes are not very useful, but absolutely necessary.*
- *I would support trainings involving judges, competition authority and the members of the bar. Good opportunity to share experience from different angles*
- *Cross-border training is less useful than in-jurisdiction training because the latter can get to a more in-depth level*

Do you think that the European Commission's funding programme "Training for Judges" should be open to other legal practitioners? If yes, to whom?





Study on judges’ training needs in the field of European competition law

Annex 3

Evaluation of the “Training of National Judges” programme

Annex 3.1. The "Training of National Judges" programme and its intervention logic

This annex provides the context of the "Training of National Judges" Programme and the re-construction of its intervention logic. The re-construction of the intervention logic is the necessary foundation of each evaluation and can only be conducted once the context of the programme has been fully understood.

Context of the intervention: funding programmes in the justice policy area

Funding programmes provide financial support for activities in a number of justice fields: fundamental rights, EU citizenship and free movement, civil justice, consumer and marketing law, criminal justice, data protection, drug control policy, gender equality, tackling discrimination.

With Communication 122 (2005) the Commission established a Framework Programme on Fundamental Rights and Justice. Within this framework, the Specific Programme Civil Justice (2007-2013)[1] was established by Decision No 1149/2007/EC of the European Parliament and of the Council[2].

One of the sub-programmes funded under this framework was the "Training of National Judges" programme led by DG Competition, aiming at training national judges in the field of competition law to develop a shared legal and judicial competition law culture within the EU. Together with its predecessor it has supported about 120 projects covering more than 7,000 participations[3] since 2002. According to the statistics published on the Commission's website, Portugal (estimated 1,034) is the Member State with most participants, followed by Italy (532), Spain (402) and Slovenia (366) in the 2007-2013 period. Denmark (12)[4], Luxembourg (25) and Sweden (37) are the Member States with the lowest participation rates. The aim of the programme was to support activities that promote cooperation and/or networking between national judges in line with the specific objectives of the grants programme:

1) Improving judges' knowledge, application and interpretation of EU competition law;
2) Supporting national judicial institutions in the field of competition law;
3) Improving and/or creating cooperation and networks;
4) Developing judges' language and terminology skills.

In the Commission's proposal for the Justice Programme 2014-2020 (COM(2011)759)[5] the training of judges is described as *"a key element of Justice policies"* for the next planning period as it *"enhances mutual confidence between Member States, practitioners and citizens".* In this light it is necessary to evaluate

[1] *http://ec.europa.eu/justice/grants/programmes/civil/index_en.htm*
[2] *Decision No 1149/2007/EC of the European Parliament and of the Council of 25th September 2007 establishing for the period 2007-2013 the Specific Programme 'Civil Justice' as part of the General Programme 'Fundamental Rights and Justice'*
[3] *Available statistics do not verify whether the same attendant has already participated in other trainings or not. This means that actually participations and not participants are counted. Based on feedback from training providers the same persons tend to attend various trainings in the field. Consequently the number of persons being trained by the programme is expected to be much lower.*
[4] *It should be noted that Denmark is the only Member State to which the programme did not apply.*
[5] *COM(2011)759: Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014 to 2020 the Justice Programme*

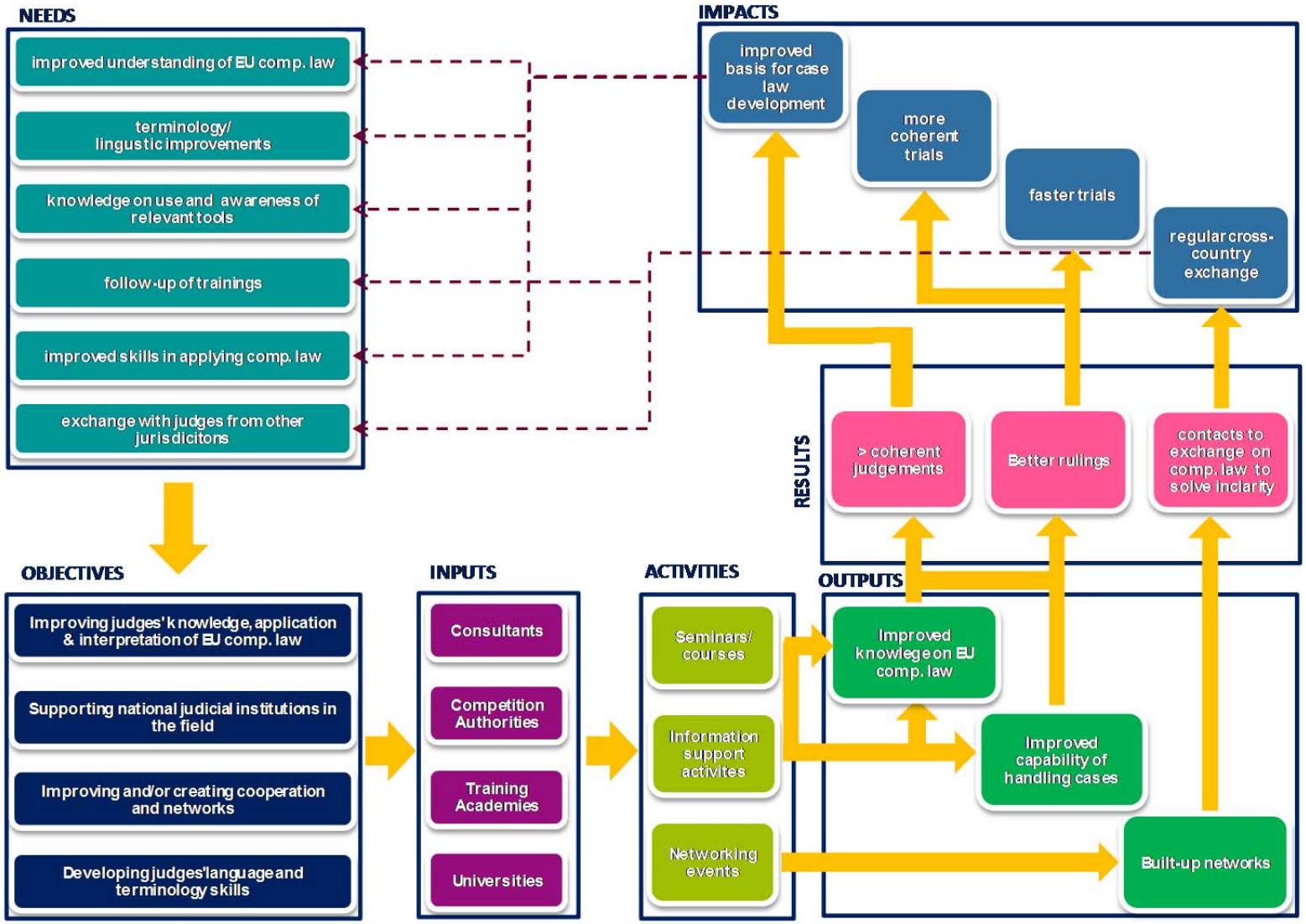
thoroughly the programme in order to draw conclusions on its performance, relevance and impact until now and, on this basis, to provide recommendations on how to (re)structure and organise new editions of the programme in the most effective and efficient form.

The "Training of National Judges" programme

The intervention logic of the programme is structured around a number of items, where the needs (what we want to change through the intervention) lead to setting objectives (what needs to be improved/reached), to inputs (who and what is needed to do it), to activities (how to do it) and eventually the effects of the intervention (outputs, results and impacts). Competition law being seen as one of the key pillars of EU competences has undergone a major change in 2003 in its application. The EC Regulation No 1/2003[6] gave competence to national authorities and national courts to apply Articles 101 and 102 TFEU. Consequently to guarantee a thorough and coherent implementation of these articles a coherent competition law culture including sufficient knowledge about and application of competition law across the EU were needed.[7] Now coherent needs assessment was undertaken, but a programme set-up based on the assumption that this need existed. Hence the 'Training of National Judges' programme set four objectives (see above) to sufficiently address this general need. All objectives were intended to be addressed through inputs from a variety of organisations (consulting companies, competition authorities, training academies, universities etc.). These organisations could apply for grants under the programme to provide judges with relevant trainings, networking events, information support and other activities. The expected outputs are: improved knowledge on EU competition law, built-up and improved networks and improved capability of handling competition law cases. Such outputs result in more coherent judgements across the EU, contacts of exchange in case of lack of clarity or information and better rulings having various impacts such as improved basis for further decisions in the field, regular exchange among judges across countries and faster trials. The figure below illustrates the intervention logic in a graphical form taking into consideration a further detailed breakdown of existing needs identified in this research (which correspond to the general need identified by the EC when launching the Programme).

[6] *http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R0001&from=EN*
[7] *Whether such a 'need' was also perceived by national judges across the EU has not been verified.*

Reconstruction of the programme's intervention logic



Source: Ecorys

Following the EC Regulation No 1/2003[8], the European Commission assumed that, at least in most Member States, active support to national judges in the form of training in this field was needed. This was mainly due to the lack of specialisation in the subject matter in many legal education programmes and the limited existence of competition law in the history of many of them valid. Now, more than 10 years later, it is important to verify if the original assumption is still valid and whether the Programme is actually facing the judicial actors’ main needs in this area of law.

In this respect, if the general need for having a coherent competition law culture as stated by the EC is still confirmed, an updated (and potentially revised) view on the specific needs of judges should be taken into consideration. Such adjustments also impact all other aspects of the causal chain relationship along the intervention logic. These will thus need to be regularly assessed in order to gather a comprehensive and updated overview of the Programme’s coherence, relevance, efficiency, effectiveness, sustainability, complementarity and EU value added.

[8] *http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R0001&from=EN*

Annex 3.2. Evaluation methodology and progress

This annex describes the evaluation methodology used, the readiness of the "Training of National Judges" Programme for evaluations (risks and limitations of the evaluation) and the specific evaluation activities conducted. It thereby describes step by step the methodological approach to complete the evaluation and the underlying evaluation matrix (Annex 3.3).

Evaluation methodology

The evaluation of the programme has both a backwards- and a forward-looking perspective. It is looking backwards to understand the key issues related to the programme (what has happened, why and how much has changed as a consequence) and to set the basis for the provision of inputs and recommendations regarding future editions. A number of key purposes are served by this evaluation[9], such as:

- Provide timely and relevant advice to decision-making and priority-setting;
- Lessons for organisational planning;
- Transparency and accountability; and
- Efficient resource allocation.

The focus of this evaluation is based on a series of evaluation criteria: effectiveness, efficiency, coherence, relevance, added-value at EU level. Where possible we also take into account the criteria of complementarity and sustainability. These criteria analyse the interlinkages existing between the different items of the programme's intervention logic.

The section below includes an analysis of the main aspects relating to the evaluability of the programme and displays how they have been tackled so far.

Readiness of the "Training of National Judges" Programme for evaluation: risks and limitations of Research Area 3

Throughout the evaluation, a series of key risks have been identified. The following table provides an overview of the key risks, their implications on the evaluation exercise. Complementarily, and in a more specific form, the commented evaluation matrix (Annex VII) informs on the main challenges and limitations related to the each evaluation question and the typology and characteristics of the available data and information supporting the analysis.

[9] *See Public Consultation on Commission Guidelines for Evaluation (November 2013)*

Risk	Implications	Response
External factors		
▪ The application of the knowledge gathered by training participants is subject to external factors which makes the completion of the Programmes theory of change (oriented towards a common application of EU law) more complicated to assess.	Cost-benefits relationships are hard to be established and related indicators are not available. The analysis of the success and impact of the Programme needs to be kept at the level of "generation of knowledge" and only complementarily cover the actual application of the acquired knowledge	A triangulation of sources approach helped to narrow down the issue and to improve the understanding of the theory of change. The combination of the findings under this Research Area with the other Research Areas has helped to complete the picture to the extent possible, but the analysis on the extent to which the knowledge is actually applied will is limited to the evidence collected through the survey. Conclusions and recommendations need to be made taking into consideration the limitations given by external factors.
Intervention logic		
▪ Lack of information on how it was established; ▪ Limited information on its relevance; ▪ Limited information on the different components of the intervention logic.	The reconstruction of the intervention logic needs to build on limited available information. This increases the risk of evaluating the programme on the basis of wrong interpretations.	The fieldwork, and especially the consultation of Programme managers, was a relevant tool to reconstruct the intervention logic and complement the information available in the Programme documents (the Annual Work Programmes of DG JUSTICE as well as the Programme calls for proposals). The assessment has been integrated and completed by taking into account the results from Research Area 2. Despite this ex-post reconstruction of the intervention logic from the observation of the Programme's activities and reporting, it is important to underline the uncertainties and limitations in the formulation of the Programme, deriving from the lack of needs analysis.
Data, information and indicators		
▪ For the first years, very limited information available; ▪ Lack of longitudinal data	No or very limited information on the first years of the programme reduces the possibility to evaluate the programme over a longer time period and therefore to know its entire development.	As per guidance provided by DG COMP, the evaluation focuses on more recent years (mainly 2007-2013) and analyses the trends and developments of the programme over time mainly in a qualitative form. The information on the evolution of the programme relies on the Programme documents first of all (work programmes and calls for proposals) and is complemented with information from training providers already participating in the Programme before 2007. An objective analysis of the earlier stage of the Programme was however not possible.
▪ Limited data available on programme's final participants	Knowledge about who is participating and how often in which training, seminar, workshop etc. and what are the reasons behind such participation	Although the Programme collected data on participation to the training sessions, the methods applied vary across years and beneficiaries (i.e,: the "participation" unit can refer to the number of individuals participating to a training, or to the number of training sessions attended – thus possibly counting the same participant multiple times). The lack of homogeneous participation data does not

Risk	Implications	Response
	is needed to draw clear conclusions on the relevance of the programme.	allow for cross-analyses and to identify the deviation between the expected and the real participation rates. Triangulation of sources and particularly the survey responses and consultations were are used to fill the gap of knowledge through qualitative information. The lack of homogeneous data participation also affects the feasibility of cost-effectiveness and efficiency analysis, which could not be carried out alternatively using national level information, given the lack of those data, the variety of training offer between countries and the differences between the national training offer with respect to the one promoted under the Programme.
▪ Limited use of performance indicators in the past.	The analysis of the current monitoring system is based on a limited amount of data. Key conclusions on the functioning of the monitoring system are conditioned by the limited availability of related evidence.	The existing indicators have been discussed and their strengths and weaknesses outlined. In addition, the assessment of the validity of the existing data has been complemented on the basis of benchmarks or examples from similar programmes and a framework for the collection of information at a participant level has been provided in the form of a suggested training evaluation questionnaire.
Survey		
▪ Difficulty in getting access to former participants; ▪ Lack of a participants' database at a Programme level; ▪ Difficulty in ensuring participants' commitment to fill in the survey.	If one or both risk factors lead to a low response rate, our analysis may lead to biased results. Clear drawing of recommendations will be difficult on the basis of a limited response rate.	Making use of Commission support letters and direct contacts to training providers are key strategies to reach the programme's participants. Need to support providers' commitment as well as to motivate survey respondents. The evaluators have received a list of training providers (years 2010-2014) by the Commission, covering thus only the most recent calls for proposals. Cooperation to reach judicial actors was satisfactory by most of them. Most providers preferred not to share the training participants' contact details for privacy reason. Potentially more efficient on one hand, on the other this approach relies on the proactivity of the providers to send reminders to the participants (even though regularly encouraged to do so by us). Moreover, additional feedback from training providers also alerted on the fact that the summer period was a more complicated moment to launch a survey. Given the difficulties indicated at an early stage of this assignment, the final response volume exceeded expectations. On the other hand, given this approach, it is not possible to get an overview of the total number of judges who were contacted (thus it is not possible to get a precise response rate). The sample is well spread and has only limited weak points, mainly related to issues such as: expired contact details; lack of cooperation from a few training providers, mainly due to work overload; and the fact that only a sub-set of training providers could be contacted.

Risk	Implications	Response
		The respondents assessed positively the survey characteristics, validating the approach adopted. The outcomes of the survey were used as a basis for discussion with key stakeholders, to provide evidence against other sources of information and to support the formulation of recommendations.
Comparability and benchmarking		
▪ Even though having similarities on certain aspects with other programmes, the Programme cannot be fully compared to them, given the specificity of its nature and design.	Reduced comparability also reduces the possibility to judge on criteria like efficiency and effectiveness.	The specificity of the Programme has caused challenges when comparing it with other programmes. Particularly the question of efficiency can be covered only to a limited extent. Estimates on grants provided per participant are possible, but the benchmarking comparison with other grant programmes is lacking. The perception from training providers has resulted to be the most relevant source of information, which has mainly a qualitative nature.

Evaluation activities

This section illustrates the activities conducted throughout the project under each evaluation phase. Each phase served as source of information collection and validation of previous phases and therefore contributed to the overall triangulation of sources to answer the evaluation questions.

Phase I: desk research & EU/programme level interviews

This phase has involved the following activities:

- **11 scoping interviews at an EU/Programme level**, digging into aspects such as: the relevance of the programme, its intervention logic, an overview of the calls for proposals and their functioning, the availability of data, identification of relevant documents and stakeholders, information on the monitoring and performance system and analysis of the main evaluation questions. This scoping phase allowed to get a solid understanding of the programme and to identify a first number of key characteristics, strengths and weaknesses, to be further analysed and expanded through the following evaluation activities. The topic guides for the interviews are included in Annex IV.

List of interviewees in the scoping phase

Nr	Name	Institution	Charge	Interview
1	Eddy De Smijter	EC - DG COMP - Unit A6	Head of Unit	Face-to-face, individual interview
2	Raffaella Battella	EC - DG COMP - Unit A6	Programme Manager of Training of National Judges	Face-to-face, individual interview
3	Gabriela Nagyova	EC - DG COMP - Unit A6	Project assistant of Training of National Judges	Face-to-face, individual interview
4	Daniel Klein	EC - DG COMP	Strategy, Delivery and Evaluation unit	Face-to-face, individual interview

5	Emmanuelle Crétin-Magand	EC - DG JUST	Policy Officer, Formation judiciaire européenne	Face-to-face, individual interview
6	Marie-Claude Blin	EC - DG ENV	EU Environmental Law for National Judges	Face-to-face, individual interview
7	Ilaria Brazzoduro	EC - DG JUST	"EU Anti-Discrimination Law" and "EU Gender Equality Law" for judges/ other legal practitioners	Face-to-face, individual interview
8	Adam Scott	AECLJ	Director of Studies, UK Competition Appeal Tribunal, former Judge	Face-to-face, individual interview
9	John Coughlan Wolfgang Heusel Jaroslav Opravil	ERA	Authors of the EP study (2011)	Phone, group interview
Total number of interviewees: 11				

- A meeting with the **expert panel** (held on 17 April 2015 in Brussels), where the evaluators shared and validated the first and preliminary findings, the proposed evaluation approach and methods, as well as specific aspects related to the evaluation questions. Building on this, the evaluation matrix was updated with specific comments on each evaluation question. Similarly, the evaluators drafted an evaluability table, pointing out the key risks and challenges for the evaluation, their implications and the strategy to tackle them. This report includes an updated version of the table, included above, and the matrix, included in **Annex 7**, informing on the state of the art of each of its item;
- On the basis of the refined evaluation matrix and on the inputs from the interviewees, identification and **revision of relevant documents**. This includes existing strategic documents and studies, such as the EP2011[10], and the documents related to the Training of National Judges Programme, including the available information on the calls for proposals and a number of relevant documents and presentations published on the DG COMP website. This has allowed to better understand the relevance, functioning and intervention logic of the programme;
- **Selection and analysis of a sample of relevant projects**, covering the application forms, evaluations of the European Commission, the final reports and the reactions on the final reports. Criteria for the selection were based on: year (focus on recent projects, covering the years 2010–2012 and applications for 2013), judges' nationality (representation of different nationalities of training participants, in projects with different nationality mix: concentration on one nationality/the mix of nationalities), number of participants (high/ low) and relevance of beneficiaries (single applicants – participating to the Programme for the first time - vs. 'annual' applicants – more than one project within the Programme). This has allowed to improve the understanding on aspects such as: the Commission decisions, focus and criteria for project selection, reporting requirements and type of information provided by the beneficiaries, as well as main changes of the system over this period.

[10] *EP (2011): Judicial Training in the European Union Member States*

Selection of projects for detailed analysis

Call	Beneficiaries		
2010	ERA (quantification)	E.I.L.F. Lisbon, PT	
2011	Freedom House Inc. Foundation	GVH - Hungarian Competition Authority	
2012	EUI (European University Institute)	Editorial Aranzadi, SA (Thomson Reuters Aranzadi)	Alma Mater Studiorum-Universita Bologna

Phase II: survey among participants

Based on the first findings and the evaluation framework, we prepared a survey questionnaire for programme participants, taking into account the model of the survey to be used in the other parts of the study (in order to allow for comparability) and the comments and feedback from a number of Commission representatives. **Annex 3.5** includes the questions and the entire set of answers to the survey, agreed and validated by the Commission.

The aim of the **survey** was to receive answers from a (qualitatively) representative sample of participants, covering a broad range of Member States and professions admissible to the events. Therefore, in addition to the specific evaluation questions, we tracked these characteristics. Apart from this, the questionnaire was 100% anonymised and data confidentiality guaranteed.

Since no contact databases existed, the launch of the survey required an extensive preparatory work: receiving a list of training providers (corresponding to the calls for proposals from 2010 to 2014) from the Commission, informing them about the evaluation, and asking for their cooperation (provision of contact lists of their participants or direct dissemination of the survey). Different training providers were open to cooperate, and in most cases they preferred not to share the contact details for privacy reasons. If on one hand this approach was expected to be more efficient, it relied on the proactivity of the providers to stimulate participation to the survey (regularly encouraged to do so by us).

Based on feedback from interviewees, training providers and the expert panel, the expected response rate was low, due to the summer period and some "survey fatigue" by participants. To tackle these issues the timeframe of the deadline for response to the survey was extended three times and a series of reminders (or called them) to training providers and participants were sent. Despite the existing barriers, 390 former participants answered the survey (whereas 25 have been screened out and 256 reached the end of the questionnaire). The number of persons at least opening the survey reached 660 (further details on the survey response and its representativeness are presented in annex 3.5).

We then analysed the survey outcomes both quantitatively and qualitatively, feeding into the preliminary analysis of Phase I. Moreover, we used them as a basis for discussion in the consultation activities under Phase III.

Phase III: national interviews, focus groups and expert panel

This phase has included a number of consultations at a national and international level:

- The **interviews at a national level** have addressed a number of training providers. These consultations have allowed to gather a clearer overview of the programme from the providers' perspective, to comment on its objectives and functioning, using the survey results as an important basis for discussion. Moreover, these interviews allowed to gather direct information on other existing programmes of training for judges in the field of competition law and to ask specific questions regarding the monitoring systems and performance indicators used in the context of other initiatives (mainly in terms of internal tools at a provider organisation level). The topic guide is included in **Annex 3.4**.

Interviews to training providers

Nr	Name	Institution	Charge	MS	Interview
1	Stevie Dixon	Oxera	Senior Marketing Events Executive	UK	Face-to-face, individual interview
2	Matija Damjan + two programme organisers	Institute for Comparative Law at the Faculty of Law in Ljubljana	Research Fellow + programme organisers	SI	Phone, group interview
3	Cristina González Beilfuss	Judicial School, Barcelona	Chief of External and Institutional relations	ES	Phone, individual interview
4	Cristina Amato	University of Brescia	Professor	IT	Phone, individual interview
5	Iulia Cospanaru	Transparency International	Joint director	RO	Phone, individual interview
6	Marco Botta, Maria Luisa Stasi	EUI	Programme organisers	IT	Phone, group interview
7	Giangiacomo D'Angelo	Alma Mater Studiorum - University of Bologna Department of Legal Studies	Researcher in Tax Law	IT	Phone, individual interview
8	Alberto Heimler	National Administration School	Professor	IT	Phone, individual interview
9	Paul Adriaanse	Universiteit Leiden	Professor	NL	Phone, individual interview
10	Rageade Jean-Philippe	ERA	Director of Programmes	DE	Phone, individual interview
11	Anna Nedeczky	Hungarian Competition Authority	Programme organiser	HU	Interview
Total number of interviewees: 13					

- The second session with the **expert panel** (11 April 2015) was used to discuss the preliminary analysis of the survey responses, there representativeness, the qualitative interpretation of findings and the implications for the programme;

- We also attended two of the **focus groups** (Lisbon and Scandicci) also relevant for the other parts of the study (Research Areas 1&2). These focus groups gave the possibility to present and discuss the draft analysis of survey results and to go in-depth on the specific issues relevant for training providers (Scandicci) and judicial staff, lawyers and training providers (Lisbon). Moreover, we used those occasions to discuss and validate the evidence collected for a number of evaluation questions on the basis of participants and programme level stakeholders consultations. Specifically, we focused mainly on aspects related to the efficiency, coherence and EU added value of the Programme.

Evaluation of the monitoring system and performance indicators

The evaluation of both the programme's monitoring system and performance indicators has used as starting sources of information the scoping interviews, the desk analysis and the different consultations and national and international level. This information has then been integrated on the basis of benchmarking with other relevant programmes and initiatives.

As far as the programme monitoring system is concerned, the evaluation has mainly focused on aspects such as the functioning of the grant management system; the reporting function and its relevance; data generation and collection tools; and transparency and accountability.

On the other hand, regarding the programme performance indicators, the analysis has mainly covered the characteristics of the existing indicators in order to identify their main strengths and weaknesses. Complementarily, the evaluators have also considered the option of using additional indicators established in the framework of the Justice Programme, as well as potential examples from other programmes with similar characteristics.

In addition, and in relation to the collection of information at a beneficiary and participant level, the evaluation also includes a proposal of training evaluation questionnaire to be used by training providers and that should be conceived as one of the integrating tools for the information generation, collection, monitoring and reporting, thus also providing a basis for evaluation activities.

Conclusions and recommendations for the "Training of National Judges" programme

The validation and triangulation of the evaluation results have allowed the evaluators to identify a number of key findings, constituting the main reference for the formulation of recommendations related to the evaluation criteria and oriented towards future editions of the Programme. Moreover, the findings of the evaluation have been analysed within the broader picture of the judges' training needs, performed under the other sections of this study (Research Area 2), allowing for both a validation of the main conclusions, but also to place the Programme in a broader context in Europe.

Annex 3.3. Commented evaluation matrix

The evaluation matrix is the basis of any evaluation and is a "living document" continuously updated throughout the process of the evaluation. It contains in a comprehensive way the sources of information, the methods and indicators used and comments concerning limitations, data and information. In this sense the evaluation matrix can be described as the "methodological mirror" of the write-up in chapter 3 of the main report.

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
RELEVANCE				
1a. To what extent are the programme's general, specific and operational objectives relevant to judges' training and networking needs?	• **Documents**: programme documents (DG JUST annual work plans, steering committee documents), calls for proposals, applicants' guidelines, existing studies and evaluations, application evaluation forms, participant feedback forms (of beneficiaries), project fiches, results from Research Area 2 • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Interviews Survey	• Levels of correspondence between objectives and needs • Level of final beneficiaries' satisfaction with respect to the expected results of the programme • Perception of interviewees of the relevance of objectives	• Definition of the programme intervention logic: from a broad setting (general objectives) to a more specific structure in the last years. Changes in the programme terminology (objectives, areas, priorities) are observed. Need for more internal coherence • Reference framework: DG JUSTICE annual work plan and Programme's calls for proposals • Limited evidence on the Programme relevance; the available information allows mainly for a qualitative assessment. No previous needs analysis and no "problem tree" available as a reference/mirror to the objectives • The main written evidence on the existing need is included in the project documents, prepared by applicants/beneficiaries. These may however present some biases/ conflict of interest • Need to link preliminary results of Research Area 3 with those from Research Areas 1 and 2 – information at national level • Challenge of having a sufficient response rate in the survey has been tackled. Survey responses are a fundamental source to answer this question

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
1b. To what extent are the priorities announced in the calls for proposals relevant to judges' training and networking needs?	• **Documents**: programme documents (DG JUST annual work plans, steering committee documents), calls for proposals, application evaluation forms, participant feedback forms (of beneficiaries), project fiches, results from Research Area 2 • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Interviews Survey Quantitative analysis	• Share of calls for proposals matching general objectives/specific objectives the Programme • Levels of correspondence between priorities and needs • Level of final beneficiaries' satisfaction with respect to the expected results of the calls for proposals • Perception of interviewees of the relevance of calls for proposals	• Need to link preliminary results of Research Area 3 with those from Research Areas 1 and 2 – information at national level. Lack of a clear overview, at a programme level, of the existing needs (to be covered under Research Area 2). • The main written evidence on the existing need is included in the project documents, prepared by applicants/beneficiaries. These may however present some biases/ conflict of interest. The identification of the needs is mainly covered by project applicants themselves (assumption of Programme managers: where there are applicants, there is a need) • Challenge of having a sufficient response rate in the survey has been tackled. Survey responses are a fundamental source to answer this question
EFFECTIVENESS				
2. To what extent have the programme's objectives been met? Where these have not been met, what factors have hindered their achievement?	• **Documents:** programme documents (steering committee documents, project final reports, evaluation fiches in case they exist), existing studies and evaluations • **Programme performance indicators** • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Interviews Survey	• % of interviewed beneficiaries perceiving that the expected results have been met • Perception of interviewees	• The definition of the programme's objectives has evolved over time; being broad at the beginning and not being quantified • The lack of baseline and target values is a limitation regarding the possibility to measure effectiveness in quantitative terms and against foreseen results and progress (performance against targets) • Project statistics on participants inform on the immediate outputs/results (however limited indicators requested), information on longer-term results is lacking • Some more information in the hands of training providers as well as evaluation forms used by them – however these are not homogeneous and thus do not allow for

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
				comparison. Conclusions can hence only be drawn on each individual training and not for the Programme as a whole • Challenge of having a sufficient response rate in the survey has been tackled but the survey is only partially informative on this dimension
3. Should more judges be trained and if so, how can this be achieved?	• **To be addressed in the Conclusions and Recommendations (see below D.2.6.)**	Conclusions and Recommendations	Conclusions and Recommendations	• Only to be answered once having clarified the needs for training. Challenges in having more applicants can have several reasons: no need, no structures (training providers), not enough funding, lack of awareness (not enough or right publicity etc.) • The quantitative nature of this question can be covered ensured only partially given the lack of baselines at a Programme level
4. Is there a geographical imbalance in training for judges and if so, how can this be remedied? *(recommendation)*	• **Documents:** programme documents and statistics, project fiches, results from Research Area 1 • **Monitoring system** • **Programme financial indicators** • **Programme managers** and other stakeholders at a programme level	Desk research Interviews Quantitative analysis	• Distribution of funding per MS • Distribution of projects per MS • Distribution of nationalities trained • Perception of interviewees	• Collected absolute numbers show strong imbalances, but do not explain the underlying causes. Limited informative capacity of participation data at a programme level/ information gaps between estimated and real participation values • Thoroughly answering this question requires an overview of the needs and systems existing at a national level and their complementarity with the offer under the Programme • Need to build on results from other Research Areas – information at national level • Need to identify the issues that cause the perception of an imbalance (based on currently available data): national contexts? Project applicants? Communication? • Lack of baselines at a Programme level

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
5. Has the programme had any unexpected effects (either positive or negative)?	• **Documents:** evaluation forms, project final reports • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Interviews Survey	• List of unintended/unforeseen effects • Perception of interviewees	• Discussed with all type of stakeholders of the programme • Challenge of having a sufficient response rate in the survey has been tackled
6. To what extent has the programme improved the knowledge of judges who have received training through it? To what extent do these judges use their new knowledge in their case work?	• **Programme managers** and other stakeholders at a programme level • **Training providers** • **Programme performance indicators** • **Final beneficiaries** (judges participating in the programme)	Interviews Survey Quantitative analysis	• % of interviewed final beneficiaries perceiving that the expected results have been met • Perception of interviewees of the effectiveness of the programme • List of existing practices	• Lack of data/information collection system that provide evidence of the long(er)-term effects of the Programme • Lack of baselines at a Programme level • Need to rely on perceptions/subjective self-assessment of participants • Challenge to link subjective perception to actual data (strong external factors influencing the results) • Challenge of having a sufficient response rate in the survey has been tackled. Survey responses are a fundamental source to answer this question • Need to take into account the relevance of exogenous factors and the only potential need for application of the knowledge – subject to the allocation of EU competition law related cases to the judges who have participated in the training
EFFICIENCY				
7. Were the outputs and effects achieved at a reasonable cost? Could the same results have been achieved with less funding? Would using other policy instruments or mechanisms have provided better value for money?	• **Documents**: programme documents, project fiches, calls for proposals • **Programme financial indicators** • **Programme performance indicators** • **Programme managers** and other stakeholders at a	Desk research Interviews Survey Benchmarking	• List of existing practices • Perception of interviewees	• The lack of comprehensive figures regarding programme participation hinders the feasibility of the efficiency and cost-effectiveness analysis at an aggregated level • Evidence from other programmes informs on other possible funding modes (framework contracts? Public procurement?) • Challenges of comparability due to the

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
	programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)			specificities of EU competition law in the judicial system and the specificities of the Programme • The funding system (grant) has been maintained over time, with stronger guidance in the last years. Need to analyse the relation between funds, their management, the activities and the results • Feedback from national training providers on alternative approaches as one of the main sources of information, but need to take into account potential biases/conflict of interest • Challenge of having a sufficient response rate in the survey has been tackled but the survey is only partially informative on this dimension • Analysis needs to rely mainly on qualitative information
8. To what extent is the programme cost-efficient in comparison with national training systems (as described in the overview resulting from the preliminary analysis)?	• **Documents:** programme documents, project fiches, calls for proposals, existing studies and evaluations, results from Research Area 1 • **Programme financial indicators** • **Programme performance indicators** • **Programme managers** and other stakeholders at a programme level • **Training providers**	Desk research Benchmarking	• List of existing practices • Perception of interviewees	• The lack of comprehensive figures regarding programme participation hinders the feasibility of the efficiency and cost-effectiveness analysis at an aggregated level • Need to build on results from Research Areas 1 and 2 – information at national level • Challenge of comparability with national training systems • Importance of taking into account the international/European perspective of the Programme • Analysis needs to rely mainly on qualitative information
9. Is the financing method efficient with respect to other possible methods? *(Recommendation: Should the*	• **Documents:** programme documents, project fiches, calls for proposals, existing studies and evaluations	Desk research Benchmarking Quantitative	• List of existing practices • Perception of interviewees	• See question 7

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
financing method of delivering training via projects be changed, for instance by shifting partially or fully from grants to public procurement?)	• **Programme financial indicators** • **Programme performance indicators** • **Programme managers** and other stakeholders at a programme level	analysis Focus group Expert panel		
COHERENCE				
10. How well does the programme work together with national judicial training programmes? Is the programme necessary/complementary to train judges on competition law?	• **Documents**: programme documents**,** project fiches, calls for proposals, existing studies and evaluations, results from Research Area 1 • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Benchmarking Interviews Survey Focus group Expert panel	• Perception of interviewees • Identification of overlaps and coordination mechanisms	• Need to build on results from Research Areas 1 and 2 – information at national level • Need to detect possible coordination mechanisms • Limited evidence in programming documents (intervention logic) • Challenge of only addressing participants in training programmes supported by the EU • Challenge of having a sufficient response rate in the survey has been tackled and has provided substantial information to cover this question • Subjective views of consultees (and especially programme beneficiaries) may be biased/have conflict of interest: need for triangulation • Survey, interviews and focus groups as main source of information until present
EUROPEAN ADDED VALUE				
11. What is the additional value provided by the programme, compared to what could be achieved by Member States at national or regional levels? Is the programme necessary to train judges in EU competition law?	• **Documents:** information on projects EU added value (available only for recent projects), results from Research Area 1 • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the	Desk research Benchmarking Interviews Survey Focus group Expert panel	• Perception of interviewees • Identification of overlaps and coordination mechanisms	• Need to build on results from Research Areas 1 and 2 – information at national level (particularly relevant here) • Need to detect possible coordination mechanisms • Limited evidence in programming documents (intervention logic) • Challenge of only addressing participants in training programmes supported by the EU • So far the only information on the EU added value is requested by the Programme

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
	programme)			directly to beneficiaries (would they have been able to provide the training without this grant? answers may be biased - conflict of interest) and training providers • Challenge of having a sufficient response rate in the survey has been tackled • Analysis of EU added value mainly in qualitative terms, and complementary to the analysis of complementarity
COMPLEMENTARITY				
12. To what extent has the programme proved complementary to other EU grant programmes, especially to projects financed by DG Justice?	• **Documents:** programme documents, existing studies and evaluations • **Programme managers** and other stakeholders at a programme level • **Training providers**	Desk research Interviews Survey	• Correlation between programmes • Complementarity between programmes • Perception of interviewees	• Limited evidence in programming documents (intervention logic) • Consultation to training providers and Programme managers as a key source of qualitative information • Scarce informative value of the survey regarding this criterion
SUSTAINABILITY				
13. The study should explore the following questions to determine whether the programme provides lasting, sustainable improvements: a. Are the effects likely to last after the training courses have ended? b. Do judges remember what they have learned in training funded by the programme by the time they need to work on a competition case? c. Do judges who were trained in courses funded by the programme remain active in the field of competition law, or do they move towards other areas of law?	• **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Survey Interviews	• Perception of interviewees • Collection of practices and examples	• Intrinsic limitations related to the typologies of expected results, in terms of knowledge creation and the potential need for its application • Limitations in the current monitoring and indicators system, which are scarcely informative on this aspect. Lack of longer-term follow up of programme results • Survey of judges as a key source of information • Need for a reflection on solutions to monitor results and their sustainability • Challenge of having a sufficient response rate in the survey has been tackled

Evaluation questions	Sources of information	Method / source	Examples of Indicators / answers	Comments, limitations, data and information
13. d. Have networks and databases created through the programme remained active?	• **Documents** • **Programme managers** and other stakeholders at a programme level • **Training providers** • **Final beneficiaries** (judges participating in the programme)	Desk research Survey Interviews	• Identification/examples of networks created • Perception of interviewees	• Survey of judges as a key source of information; other information rather limited at a programme level (no follow-up over time) • Consultation of training providers has proved to be informative on the strengths and weaknesses related to sustainability • Challenge of having a sufficient response rate in the survey has been tackled

Annex 3.4. High level interviews at programme/EU level

The interviews at the Programme level consisted of three types of interviews:

- Persons involved in the DG COMP Programme;
- Persons involved in other judicial training Programmes;
- Persons involved in related studies.

The purpose of these interviews was to improve the understanding of the project team with respect to the context of the Programme, comparative programmes and to get first answers to the evaluation questions. Therefore, three topic guides were developed (presented below i.-iii.) for discussion with the three groups of interviewees. Interviewees were guaranteed non-traceability to their individual answers. Therefore precise transcripts cannot be shared.

i. Interviews at a Programme level – Programme managers

Introduction

The "Training of National Judges" programme led by DG Competition aims at training national judges in the field of competition law to develop a shared legal and judicial competition law culture within the EU.

The programme's objective is to co-finance projects aimed at promoting judicial cooperation between national judges and providing them with training on enforcing EU competition rules. This includes public and private enforcement of anti-trust rules and State aid rules. The overall goal is to ensure the consistent application of EU competition law by national courts.

Projects should focus on:

- ensuring coherent and consistent application of EU competition rules by national courts;
- improving and encouraging cooperation between national judges on EU competition law;
- covering the specific training needs of the judges.

Specific objectives of the grants programme:

- improving judges' knowledge, application and interpretation of EU competition law;
- supporting national judicial institutions in the field of competition law;
- improving and/or creating cooperation and networks;
- developing judges' language and terminology skills.

Relevance

1. Which are the main **training needs** and interests of judges in the field of competition law?

   a. General training or advanced training in particular areas?
   b. Multinational events held in English, or events for judges from one Member State at a time, in their native language?

2. In your opinion, what are the main aspects that are lacking in the training offer in the field of competition law at national level and that should supported through **additional training at EU level**?

3. Do you think that the programme is tackling these needs? To what extent are its **objectives relevant** to judges' training and networking needs?

4. How are the **priorities** included in the calls for proposals identified and established? How is their relevance to judges' training and networking needs ensured?

I.e. in 2014: same priority areas as the Programme in general • Improvement of knowledge, application and interpretation of EU competition law • Support to National Judicial Institutions on Competition Law knowledge • Improving and/or creating cooperation/networks; • Residual* funding for linguistic trainings

5. Is the programme contributing to **generating the best project and training ideas**? Which support and guidance is provided by the programme to potential applicants?

6. How are project and training ideas **assessed**? Which are the main criteria that you follow? Are applicants informed about the **selection criteria** in the application phase?

Effectiveness

7. Through its various editions, it has supported about 120 projects involving more than 7,000 national judges since 2002. To what extent do you think that the programme's **objectives have been met**?

8. In your opinion, **which are the main results** that have been achieved by the programme?

9. To what extent has the programme **improved the knowledge of judges** who have received training through it?

   a. How has the programme improved national judges' knowledge of EU competition law and its application?

   b. How do training events organised through the programme help judges in their daily work?

   c. Do these judges use their new knowledge in their case work? To what extent?

10. Which are the main factors that can have **hindered the achievement of the programme's objectives**? Please, identify the barriers existing at EU, national and individual level.

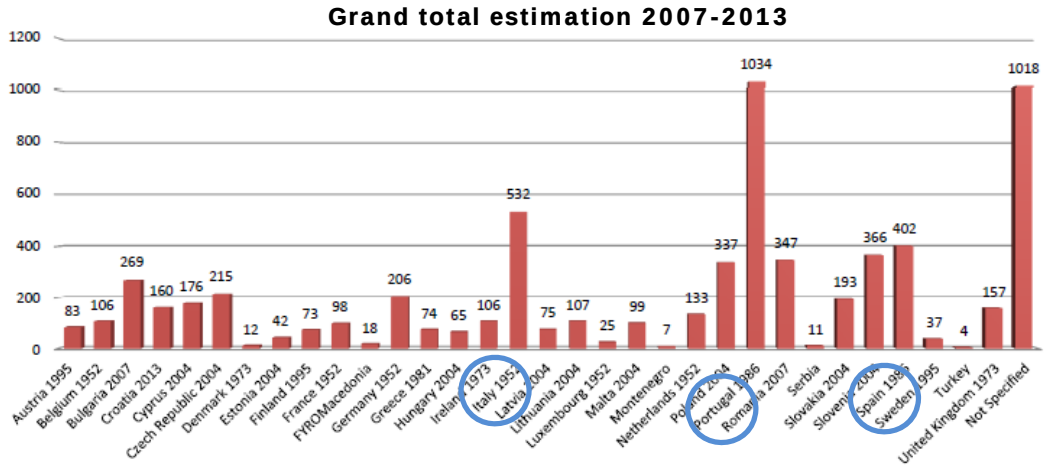
11. Focusing on the typology, number and distribution of **beneficiaries**:

   a. The programme's target audience are "Judicial staff": Judges, Prosecutors, Judicial court staff, Bailiffs, Notaries, Mediators.

   How do you assess the coverage of the programme in terms of beneficiaries? Have all potential beneficiaries been identified or should other actors take part in the training offer?

   b. Should more judges be trained? If so, how could this be achieved?

   c. We have observed a certain geographical imbalance in terms of judges participating in the programme's training actions.



How do you explain this? And how could this be remedied?

12. Has the programme had any **unexpected effects** (either positive or negative)?

Efficiency

13. Were the outputs and effects achieved at a **reasonable cost**? Could the same results have been achieved with less funding? Would using other policy instruments or mechanisms have provided better value for money?

14. Do you have any evidence of the cost-efficiency of the programme when compared to **national training systems** (as described in the overview resulting from the preliminary analysis)?

15. Should the **financing method** of delivering training via projects be changed, for instance by shifting partially or fully from grants to public procurement?

Coherence and complementarity

16. How well does the programme **work together with national judicial training programmes**? Is our programme necessary/complementary to train judges on competition law?

17. And to what extent has the programme proved **complementary to other EU grant programmes**, especially to projects financed by DG Justice?

European added value

18. What is the **additional value provided by the programme**, compared to what could be achieved by Member States at national or regional levels? Is the programme necessary to train judges in EU competition law?

Programme monitoring and performance

19. Could you please describe the **monitoring system** of the programme? How are activities and beneficiaries followed up?

20. How does the programme **monitor the results** of its training actions? Which indicators do you think are best suited to measure/monitor the achievements of results at a programme level?

As from the programme intervention logic:

Outputs	Results	Impacts
- projects are completed satisfactorily; - operational networks are created and maintained; - groups of national judges have received training; - exchanges of experiences/best practices took place; - databases are set up and used.	- improved knowledge, application and interpretation of EU competition law; - cooperation/networks established and/or improved; - obstacles to cross-border cooperation removed	- coherent and consistent application of EU competition rules by national courts

Sustainability

21. Are the **effects likely to last** after the training courses have ended?

22. Do you have any evidence of the **sustainability** of these actions and their results? Could you please mention specific examples?

23. Do judges **remember** what they have learned in training funded by the programme by the time they need to work on a competition case?

24. Do judges who were trained in courses funded by the programme remain **active in the field of competition law**, or do they move towards other areas of law?

25. Have **networks and databases** created through the programme remained active?

ii. Interviews at a Programme level – Managers of other Programmes

Ecorys, together with ERA-EJTN, is currently conducting a study on "Judges' training needs in the field of competition law" for DG COMP. As part of this study Ecorys is responsible for the evaluation of the "Training of National Judges" programme.
The project has recently been launched and, as first activities, we are organising a number of interviews with relevant stakeholders at Programme/EU level. The objective of these interviews is to discuss different aspects of the Programme and similar Programmes, in order to get a better understanding of this initiative and prepare the ground for the following evaluation activities.
For this reason, we consider that it would be relevant to meet you in order to discuss the main features related to the initiative of XXX[11]. A better understanding of similar EU initiatives, their design, implementation, monitoring systems, success factors etc. is a strong point of reference to thoroughly evaluate the "Training of National Judges" programme of DG COMP.
We would therefore like to discuss in a very open format the following topics related to your programme with you (the questions are indicative to improve your understanding on what we are looking for):

- **Objectives**
  - What are the objectives of the programme?
  - What are the reasons for launching the programme?
  - Have the objectives changed over time and if so why?

- **Design & Implementation**
  - How is the programme designed?
  - Who is responsible for what?
  - How much money is invested?

- **Outputs/Results/Effectiveness**
  - How many beneficiaries are there? Trends?
  - Do these numbers go in line with the expectations?
  - Are there specific trends?
  - Are there differences between Member States?

- **Monitoring & Evaluation**
  - What is the monitoring system in place?
  - How do you evaluate the programme?
  - Have you changed the monitoring/evaluation system over time? Why (not)?

- **Success factors and other experiences**
  - What are the key success factors for your programme?
  - Have you made specific surprising experiences?

- **Good/bad practices**
  - Can you provide good/bad practice examples?

- **Other relevant information**
  - Any other relevant information to be taken into account?

iii. Interviews at a Programme level – Related studies

Introduction
The "Training of National Judges" programme led by DG Competition aims at training national judges in the field of competition law to develop a shared legal and judicial competition law culture within the EU.
The programme's objective is to co-finance projects aimed at promoting judicial cooperation between national judges and providing them with training on enforcing EU competition rules. This

[11] *Reference to the specific initiative*

includes public and private enforcement of anti-trust rules and State aid rules. The overall goal is to ensure the consistent application of EU competition law by national courts.
Projects should focus on:
- ensuring coherent and consistent application of EU competition rules by national courts;
- improving and encouraging cooperation between national judges on EU competition law;
- covering the specific training needs of the judges.

Specific objectives of the grants programme:
- improving judges' knowledge, application and interpretation of EU competition law;
- supporting national judicial institutions in the field of competition law;
- improving and/or creating cooperation and networks;
- developing judges' language and terminology skills.

Relevance (based on knowledge gathered through the EP 2011 study)

1. Which are the main **training needs** and interests of judges in the field of competition law?

   a. General training or advanced training in particular areas?

   b. Multinational events held in English, or events for judges from one Member State at a time, in their native language?

   c. Are there specific needs identified only in the field of competition law, or do you observe common trends in all the fields of law?

   d. In the EP study you mention that "the knowledge of how and when to apply EU law in particular the use of the preliminary reference procedure, is still lacking". Could you please comment on this?

2. In your opinion, what are the main aspects that are lacking in the training offer in the field of competition law at national level and that should be supported through **additional training at EU level**?

   a. In the EP study you mention that the most significant obstacle to training participation is the organisation of the justice system itself. Could you please elaborate on that? To what extent is this affecting the training offer, and specifically in the field of competition law?
   b. In the EP study you mention that almost all new entrants have studied EU law. Does this mean that age is an important factor in the identification of judges' training needs?

3. Do you think that the programme is tackling these needs? To what extent are its **objectives relevant** to judges' training and networking needs?

4. How are the **priorities** included in the calls for proposals identified and established? How is their relevance to judges' training and networking needs ensured?

Ie in 2014: same priority areas as the Programme in general
- Improvement of knowledge, application and interpretation of EU competition law
- Support to National Judicial Institutions on Competition Law knowledge
- Improving and/or creating cooperation/networks;
- Residual* funding for linguistic trainings

5. Is the programme contributing to **generating the best project and training ideas**? Which support and guidance is provided by the programme to potential applicants?
   c. In the EP study you mention that 81% of participants speak English, but also that language barriers constitute a major obstacle. Why?

6. How are project and training ideas **assessed**? Which are the main criteria that you follow? Are applicants informed about the **selection criteria** in the application phase?

7. Other relevant aspects?

Annex 3.5. Survey to programme participants

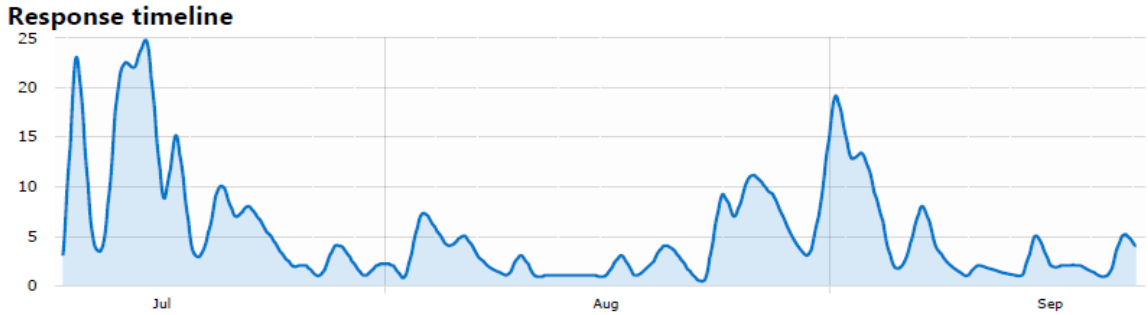
Introduction

This annex provides an overview of the outcomes based on the survey Ecorys conducted amongst former participants in trainings funded by the Trainings for Judges in EU Competition Law programme. The objective of the survey is to see what the final beneficiaries of the programme (the trained judges) think about the relevance, effectiveness, efficiency, complementarity, EU value added and sustainability of the Training of National Judges Programme in EU Competition Law. As outlined in the proposal the original assumption was that DG COMP would possess direct contacts of all former participants having been trained since the establishment of the Programme.

The main risks, implications and response of our survey approach encountered consist of:

1. Difficulty in getting access to former participants. Given that no contact database existed we had to rely on the contacts of beneficiaries of the Programme since 2007. Reaching participants from the previous period would have only been possible if they had been trained by the same providers. To increase the commitment of providers to cooperate we provided them with a support letter of the European Commission. We further contacted them various times by phone and e-mail to ensure their cooperation. In most cases providers reacted positively to our request by forwarding the survey link to training participants or, in fewer cases, by providing us with the participant's contact details..
2. Difficulty in ensuring participants' commitment to fill in the survey. The involvement of training provider in the distribution of the survey represented a potential motivation factor for former participants to take part in the survey. The disadvantage is that the final messages to the participants and the regular reminders were not completely under our control. If training providers shared direct contacts with us we could send the survey link to participants including a second support letter from DG COMP. We then repeatedly encouraged them to fill in the survey. If training providers took care themselves of contacting their participants, we periodically reminded them to further encourage their participants to fill in the survey.
3. Survey fatigue of judges. The expert panel lowered our expectations in reaching a satisfactory participation in the survey. Experts indicated that only very few judges would be willing to participate in an online survey, due both to a certain survey fatigue and a possible reluctance to fill in surveys. To address this issue we prepared to more qualitatively interpret results in case of lower response rate, but also enforced commitment to tackle the issue by guaranteeing complete confidentiality and underlining the importance of participation for future training opportunities. Furthermore, we chose a very easy-to-use online tool making the survey process as user-friendly as possible.
4. Timing of the survey. Given the various rounds of revision of the questionnaire including an increasing length of it, and the time required for building the contact details dataset/ensuring providers' commitment, the timing of the survey became less than ideal, coinciding with the summer period. Given the short deadlines after the summer we decided to launch the survey a, but to keep the option of extending it well into September if necessary (we extended the survey three times and addressed again specific training providers whose participants response rate was below average).

The different attempts to further encourage participation showed positive impacts on the response rate. Immediate increases in the response rate over time are shown in the response timeline figure below.



Source: Ecorys TfJ Participants Survey 2015

The following table provides an overview on key facts of the survey.

Start date	08/07/2015
End date	22/09/2015
Number of questions	45
Average completion time	19 min. 13 sec.
Start page views	660
Total respondents	390
Screened out	25
Reached end	256

Source: Ecorys TfJ Participants Survey 2015

The number of persons at least opening the survey reached 660. The training providers contacted (based on contacts provided by the EC) were grant holders for the period 2010-2013 during which an estimated number of 4,819 participations in the Programme took place. This represents about 69% of all participations since the programme was launched. Many of the respondents indicated that they had participated in a training before 2010, which shows either that training providers also contacted persons attending earlier or that the same persons attended various training programmes. An extra level of uncertainty was whether all former participants between 2010 and 2013 could be reached (e.g. due to old or non-functioning e-mail addresses, no contact details, limited cooperation of training providers etc.). 660 persons opened the survey which means that it successfully reached at least 13.7%[12] of participants. Out of these 59% (representing at least 8.1%[13] of the total population) decided to answer the survey[14] (whereas 6% of them got screened out leading to at least 7.6%[15] survey relevant responses). 70% of the relevant respondents reached the end, representing 38.9% of the persons at least opening the survey and at least 5.3% of the total population. The following table summarises these calculations:

Number of participations 2010-13	4819[16]	69% of 7000
Number of persons who opened the survey	660	13.7% of 4819
Number of persons who responded to the survey	390	8.1% of 4819 (or 59% of 660)
Number of respondents after screening out	365	7.6% of 4819
Number of persons who completed the survey	256	5.3% of 4819 (or 38.9% of 660 or 70% of 365)

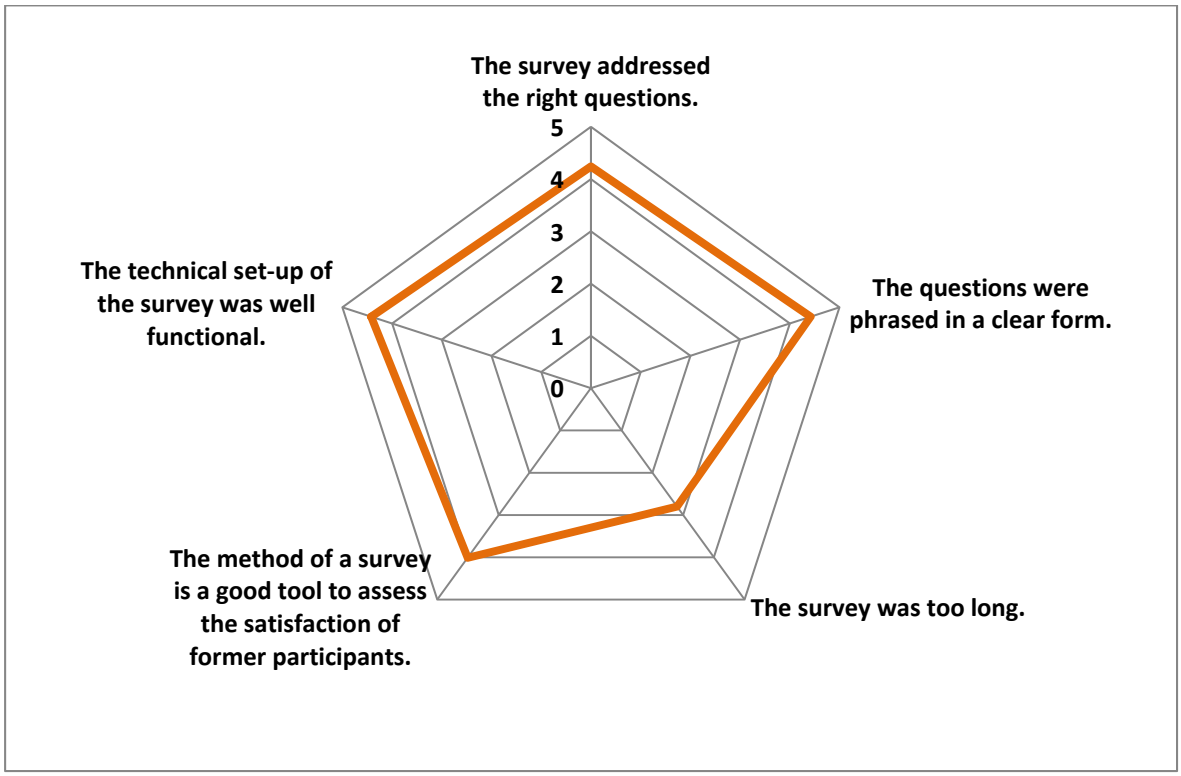
Source: ERA

[12] *Dividing 660/4,819. This leads to a conservative estimate as the 660 represent individual persons, while the 4,819 represents participations. The 'real' share is therefore expected to be higher.*
[13] *Dividing 390/4,819*
[14] *Meaning that they at least answered the screening question.*
[15] *Deducting screened out responses from total responses and dividing by 4,819: (390 – 25)/4,819*
[16] *Source: http://ec.europa.eu/competition/court/general_geographical_impact_en.pdf*

Including 45 questions with an average completion time of more than 19 minutes the survey was much longer than originally intended[17]. The drop-out rate of less than 30% throughout the answering process is however acceptably low. Also because most of the drop-outs happened already after a few questions. Filtering out the non-completed questionnaires does not impact the final results.

Concluding the survey we have included an evaluation of the survey to assess the satisfaction of respondents with this approach. Respondents have been asked to rate on a scale from 1 to 5 (1…not true at all; 5…absolutely true) five statements with respect to the set-up of the survey.

Figure 1 Evaluation of the Ecorys TfJ Participants Survey 2015

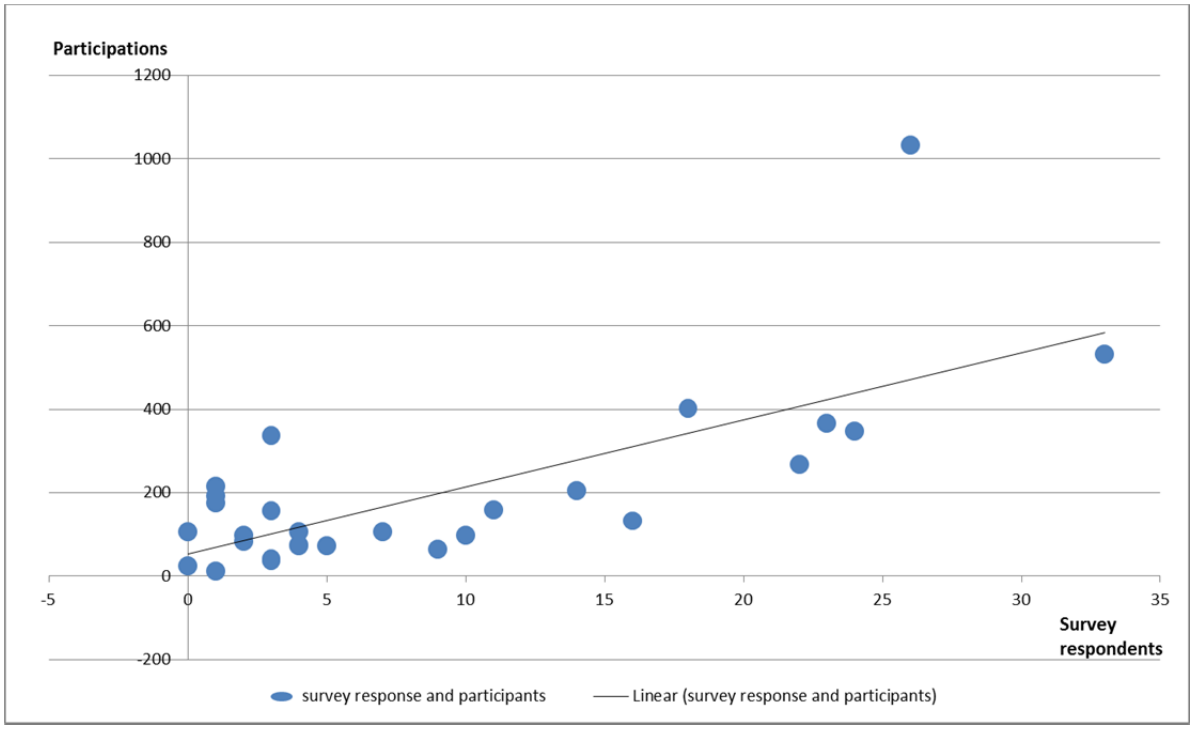


Source: Ecorys TfJ Participants Survey 2015

The average satisfaction with the survey was very high. Technical set-up, phrasing and choice of questions as well as the survey as a method in general have all been ranked with an average mark above 4. Despite the fact that the average response time reached almost 20 minutes the statement "The survey was too long" was rated below average.

The strong geographical variety in terms of number of respondents raised a concern of a bias in answers. Cross-checking this with the number of participations per Member State however shows a strong positive correlation (+0.72[18]). The following figure plots survey responses on the x-axis and training participations on the y-axis.

[17] *This was due to the various requests and needs to insert further questions and more detailed options.*
[18] *The scale is from -1 to +1. 0 means no correlation, -1 an absolute negative correlation, +1 an absolute positive correlation.*



The strongest outliers in the figure are Portugal, which has by far the highest participations in the programme and Poland, which is underrepresented in the survey. Taking out these outliers the correlation increases to +0.83.

Despite being representative in terms of overall participations, a second concern was that large numbers of responses from given countries could bias the overall outcome due to specific national settings. Dividing the survey responses into two groups (Group A: Member States with 10 or more responses; Group B: Member States with less than 10 respondents) and splitting the result accordingly shows, however, no significant difference between the answers. The biggest variation in answers can be seen in question 27, to which 72% of respondents in Group B said that they still remember the content of the training, whereas only 51% of respondents in Group A said the same. The answers of the smaller Group B (68 responses) need to be assessed with greater care than those from Group A (198 responses).

The questionnaire

In this section we provide the full questionnaire which participants were asked to respond to in an online format:

Training of Judges Participants Survey

Q1. I have received the link to this survey either by my training provider or by Ecorys and am part of the targetted group of former participants:

- ○ Yes
- ○ No

Q2. What was the main reason for participating in the training within the "Training for Judges" Programme?Please rank your two preferred options (multiple choice):

Opportunity to improve the theoretical knowledge and interpretation of basic EU competition law	①	②

Opportunity to improve the theoretical knowledge and interpretation of advanced EU competition law	①	②
Opportunity to get updates on latest developments in EU competition law	①	②
Opportunity to advance in specific areas of competition law (such as antitrust, specific sector such as energy etc.)	①	②
Opportunity to acquire practical skills for the application of EU competition law such as research skills (where to find most recent updates), analytical or economic skills to improve judgement etc.	①	②
Opportunity to create and/or strengthen cooperation and networks	①	②
Opportunity to create a formal network	①	②
Improvement of language skills	①	②
Other, please specify	①	②

Q3. Please explain your ranking (in a few words):

Q4. To what extent did the training you attended in correspond to your training needs in competition law?Please select (single choice):

- ○ Not at all
- ○ Partially
- ○ Mostly
- ○ Completely

Q5. Please explain your selection (in a few words):

Q6. To what extent did the training you attended facilitate networking? Please select (single choice):

- ○ Not at all
- ○ Partially
- ○ Mostly
- ○ Completely

Q7. Please explain your selection (in a few words):

Q8. Would you attend other similar training actions?Please select (single choice):

- ○ Yes
- ○ Maybe
- ○ No

Q9. Please explain your selection (in a few words). What would you keep/change?

Q10. Which have been the main effects of the programme/training for you? Please highlight at least 2 main effects:

Effect 1	
Effect 2	
Effect 3	
Effect 4	
Effect 5	
Effect 6	
Effect 7	
Effect 8	

Q11. Please elaborate (in a few words) on the effects mentioned above:

Q12. To what extent has the programme improved your knowledge in EU competition law?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q13. Please explain your selection (in a few words):

Q14. To what extent has the programme improved your skills to handle cases involving EU competition law?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent
- ○ Not applicable

Q15. Please explain your selection (in a few words):

Q16. To what extent has your professional network been strengthened thanks to the programme?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q17. Please explain your selection (in a few words):

Q18. What were the main strengths of the training?Please select (multiple answers possible - max. 5):

- ❑ The training focused on theoretical aspects
- ❑ The training focused on practical and operational aspects
- ❑ The training ensured a good balance between theory and practice
- ❑ The training provided opportunity for networking
- ❑ The contents of the training were broad, allowing to familiarise with the subject
- ❑ The contents of the training were specialised and provided relevant advanced information
- ❑ The training covered both legal and economic issues related to competition law
- ❑ The training supported the creation of (further) knowledge in competition law as a whole
- ❑ The training supported the creation of (further) knowledge in specific areas of competition law (e.g. antitrust, telecommunication, others)
- ❑ The training broadened and updated my knowledge of the latest developments in competition law (e.g. recent case law)
- ❑ The profile of teachers was high

- ❑ The training method used by the teachers was motivating (e.g. illustrating case studies, solving cases by participants)
- ❑ The profile of the participants was high
- ❑ The training was well tailored to the participants knowledge base
- ❑ The training was held/interpreted in my mother tongue
- ❑ The training offered me the choice to gain knowledge in the legal language terminology of a foreign language
- ❑ The training allowed me to get to know the legal practice of competition law of other EU jurisdictions
- ❑ Other, please specify
  .....
- ○ None of the above

Q19. Do you have any comments regarding your selection? Please explain (in a few words):

Q20. What were the main weaknesses of the training?Please select (multiple answers possible - max. 5):

- ❑ The training was too short
- ❑ The training was too long
- ❑ The training lacked theoretical focus
- ❑ The training lacked practical focus
- ❑ The training was not targeted to the participants' profiles/knowledge base
- ❑ The other participants were more prepared than me in the subject
- ❑ The other participants were less prepared than me in the subject
- ❑ The knowledge of the teachers was not satisfactory
- ❑ The training methodology of the teachers was not satisfactory (e.g. only lecture style, too little time for discussion)
- ❑ The training only focused on legal matters
- ❑ The training focused on economic matters
- ❑ The training content differed from what I had expected
- ❑ The training was too broad and basic
- ❑ The training was too specialised and focused
- ❑ The training was not held/interpreted in my mother tongue

- ❑ The training did not deal with the specificities of competition law application in my own Member state.
- ❑ The training dealt too often with particularities relevant only for one Member state
- ❑ Other, please specify
  .....
- ○ None of the above

Q21. Please explain your selection (in a few words):

Q22. To what extent is the training complementary to other trainings offered by organisations in your country?Please select (single choice):

- ○ No relevant trainings are provided in my country in this field
- ○ The training overlaps with other trainings provided in my country
- ○ The training is partially complementary to other trainings provided in my country
- ○ The training is highly complementary to other trainings provided in my country

Q23. Please explain your selection (in a few words):

Q24. Do you consider that the Programme has an added value for being organised at a European level?Please select (single choice):

- ○ Yes
- ○ No

Q25. Please explain your answer (in a few words):

Q26. To what extent do you believe such trainings co-funded by the EU contribute to a more coherent culture of competition law across the EU?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q27. To what extent do you still remember the content of the training? Please select (single choice):

- ○ Not at all

- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q28. To what extent do you still use the networks (e.g. alumni connections, web fora, personal contacts etc.) established during the training?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q29. To what extent do you still use the tools (e.g. IT tools, materials etc.) and skills obtained during the training?Please select (single choice):

- ○ Not at all
- ○ To a limited extent
- ○ To a good extent
- ○ To a very satisfactory extent

Q30. To what extent would you recommend the training you attended to colleagues?Please select (single choice):

- ○ Not at all
- ○ Probably not
- ○ Yes, probably
- ○ Definitely yes

Q31. Please explain your answer (in a few words):

To avoid potential biases through skewed participation rates and to improve the quality of our final analysis we would like to ask you to also provide some statistical information about you. We would like to stress again that we will treat your data with the highest standards of confidentiality and it will be impossible to trace back from final results who has answered the survey!

Q32. Who was your training provider? (multiple answers possible if various trainings)

- ❑ ADEL Agency for the development of the European Law
- ❑ Alma Mater Studiorum- University of Bologna (CRIFSP European School of Advanced Fiscal Studies)
- ❑ Catholic University of Portugal- Regional Centre of Porto
- ❑ EILF European Institute of the Law Faculty of the University of Lisbon

- ❑ EPLO European Public Law Organization
- ❑ ERA Academy of European Law
- ❑ EUI- European University Institute
- ❑ European Actors Association
- ❑ Foundation Institute for European Projects
- ❑ Freedom House Inc. Foundation
- ❑ General Council for the Judiciary of Spain, Judicial School (Esuela Judicial)
- ❑ Hungarian Competition Authority
- ❑ Institute for Comparative Law at the Faculty of Law in Ljubljana
- ❑ Italian Competition Authority
- ❑ Judicial Academy of the Czech Republic
- ❑ Law and internet Foundation
- ❑ Leuphana Universitat Luneburg
- ❑ National School of Judiciary and Public Prosecution
- ❑ Oxera Consulting Limited
- ❑ Portuguese Association for Consumer Protection - DECO
- ❑ Radboud University Nijmegen
- ❑ Scuola Superiore della Pubblica Amministrazione (SSPA)
- ❑ The Malta Competition and Consumer Affairs Authority
- ❑ Transparency International Romania
- ❑ University College Dublin
- ❑ University of Brescia
- ❑ University of Genoa
- ❑ University of Leiden
- ❑ University of Ljubljana
- ❑ University of Molise
- ❑ University of the West of England, Bristol
- ❑ University of Valencia

Q33. Country of work (single choice):

- ○ Austria
- ○ Belgium
- ○ Bulgaria
- ○ Croatia
- ○ Cyprus
- ○ Czech Republic
- ○ Denmark
- ○ Estonia
- ○ Finland
- ○ France
- ○ Germany
- ○ Greece
- ○ Hungary
- ○ Ireland
- ○ Italy
- ○ Latvia
- ○ Lithuania
- ○ Luxembourg
- ○ Malta
- ○ Netherlands
- ○ Poland
- ○ Portugal
- ○ Romania
- ○ Slovakia
- ○ Slovenia
- ○ Spain
- ○ Sweden
- ○ United Kingdom
- ○ Other, please specify
  .....

Q34. What is your profession? (multiple answers possible)

- ❑ Judge
- ❑ Prosecutor
- ❑ Judicial court staff
- ❑ Lawyer in private practice
- ❑ Competition authority member or staff
- ❑ Academic
- ❑ Other, please specify
  .....

Q35. With what type of cases do you deal? (multiple answers possible)

- ❑ Competition law
- ❑ Administrative law
- ❑ Civil law
- ❑ Commercial law
- ❑ Criminal law
- ❑ Other

Q36. In which type of court do you sit? (multiple answers possible)

- ❑ Specialised competition tribunal
- ❑ Administrative court
- ❑ Civil court
- ❑ Commercial court
- ❑ Criminal court
- ❑ Other
- ○ Not applicable in my jurisdiction

Q37. What is your age?Please select (single choice):

- ○ Under 30
- ○ 30 - 39
- ○ 40 - 49
- ○ 50 - 59
- ○ 60 and over

Q38. Are you specialised in competition law?Please select (single choice):

- ○ Exclusively
- ○ Partly
- ○ Not at all

Q39. What cases are you mainly dealing with? (multiple answers possible)

- ❑ Private action
- ❑ Antitrust
- ❑ State aid
- ❑ No specialisation
- ❑ Other, please specify
  .....

Q40. How often do you deal with competition law cases?Please select (single choice):

- ○ Never
- ○ Sometimes
- ○ Often
- ○ Most of the time

Q41. Number of years since you were first appointed (as judge/court staff):Please select (single choice):

- ○ 0 - 5
- ○ 6 - 10
- ○ 11 - 15
- ○ 16 - 20
- ○ 21 - 30
- ○ 30 +

Q42. Number of years you have been dealing with competition law?Please select (single choice):

- ○ 0 - 5
- ○ 6 - 10
- ○ 11 - 15
- ○ 16 - 20
- ○ 21 - 30
- ○ 30 +

Q43. When did you participate in the training? (multiple answers possible if different trainings)

- ❑ 2002
- ❑ 2003
- ❑ 2004
- ❑ 2005
- ❑ 2006
- ❑ 2007
- ❑ 2008
- ❑ 2009
- ❑ 2010
- ❑ 2011
- ❑ 2012
- ❑ 2013
- ❑ 2014
- ❑ 2015

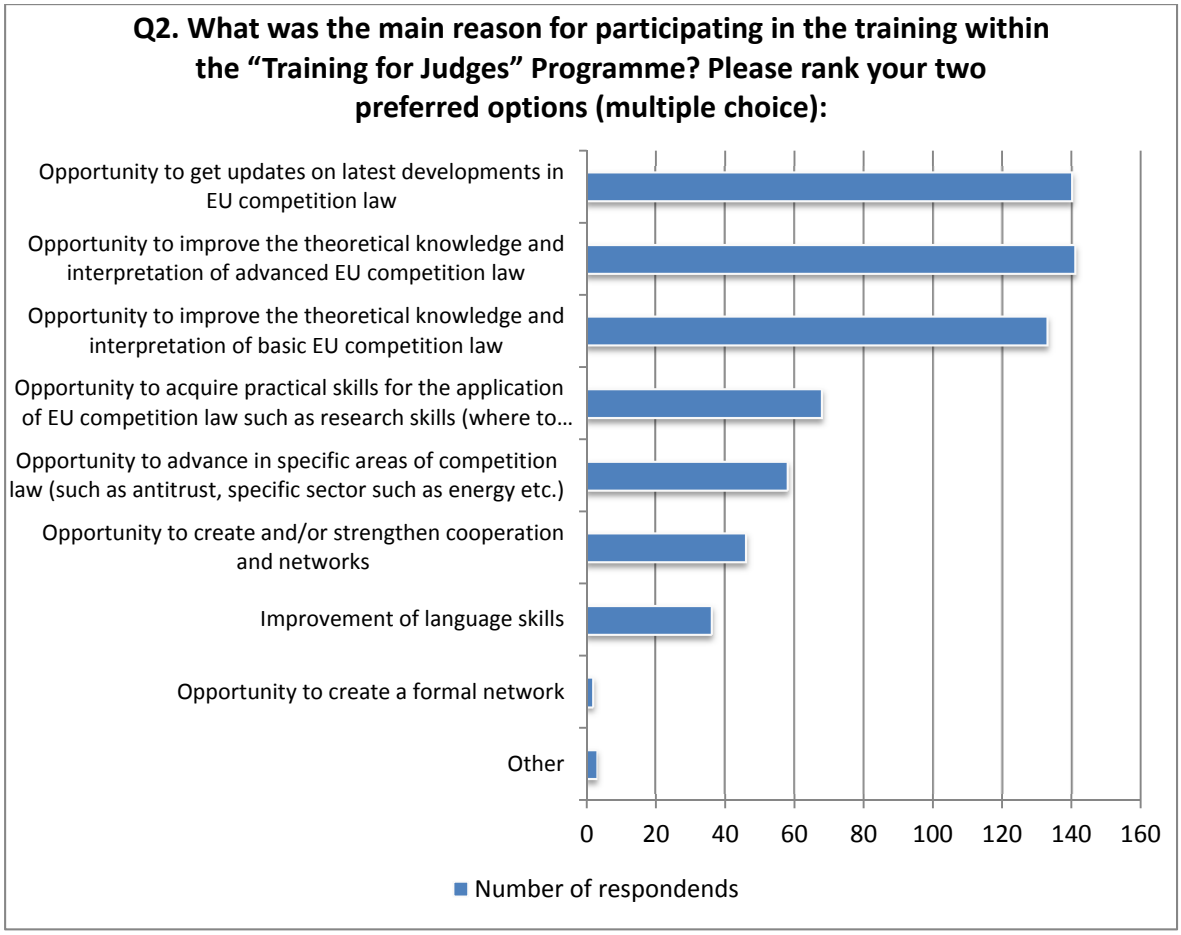
Q44. If you want to support us in improving our surveys we would like to ask you to rank each of the following statements (1 = not true at all, 5 = absolutely true):

	not true at all				absolutely true
The survey addressed the right questions.	①	②	③	④	⑤
The questions were phrased in a clear form.	①	②	③	④	⑤
The survey was too long.	①	②	③	④	⑤
The method of a survey is a good tool to assess the satisfaction of former participants.	①	②	③	④	⑤
The technical set-up of the survey was well functional.	①	②	③	④	⑤
The form of an online survey instead of phone- or paper-based surveys is a good idea.	①	②	③	④	⑤
The survey was accessible long enough providing time to respond when available.	①	②	③	④	⑤

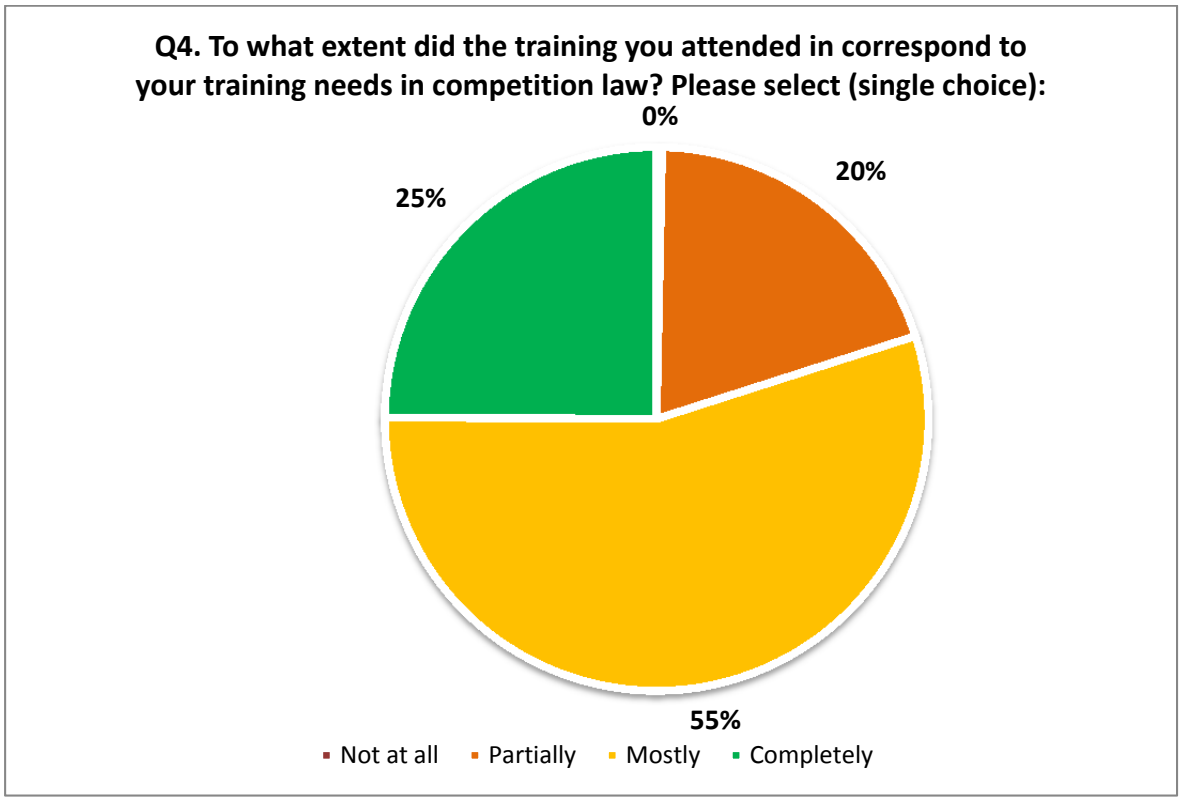
Q45. Please use the following box, if you want to make any comments regarding the survey:

Overview of quantitative answers

In this section we provide a graphical overview of the answers of all survey questions which were quantitatively measurable. Most questions in the survey were followed by a second question asking for the reasoning behind certain answers. This qualitative feedback was taken into consideration when interpreting the results and is as such integrated in the analysis of the main report.



Source: Ecorys TfJ Participants Survey 2015



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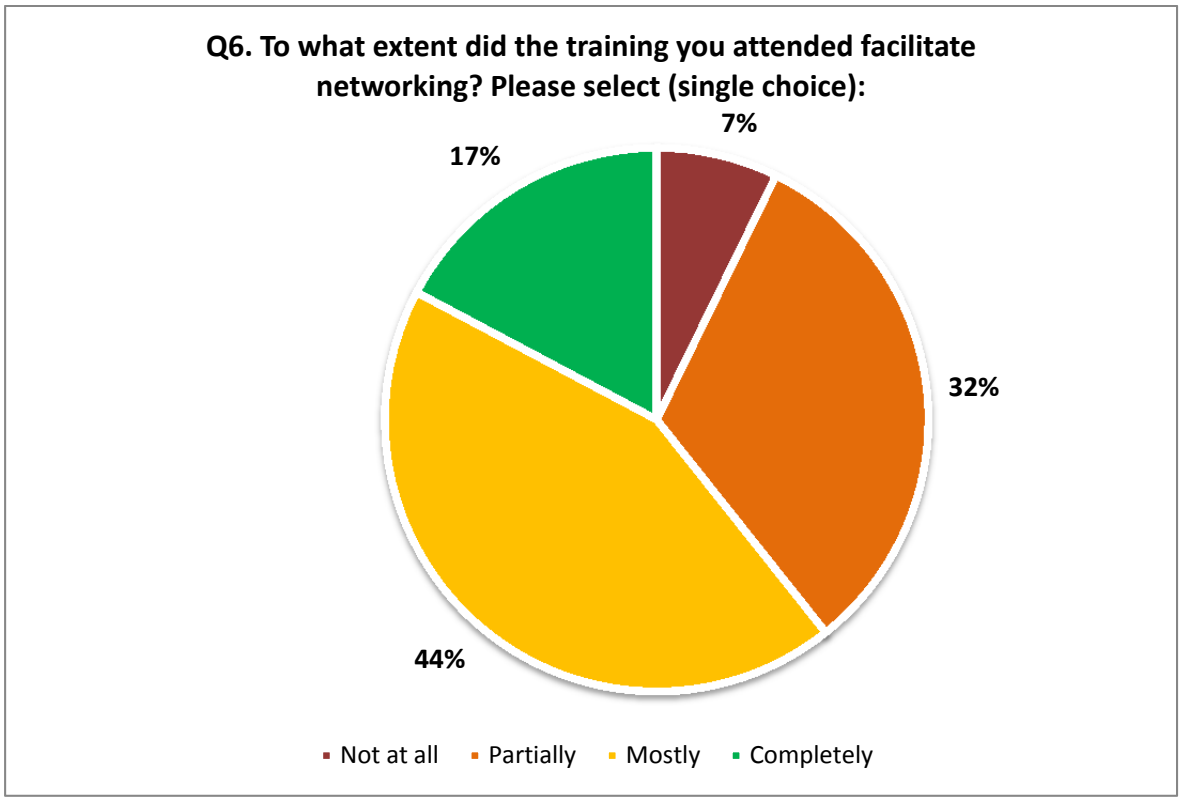

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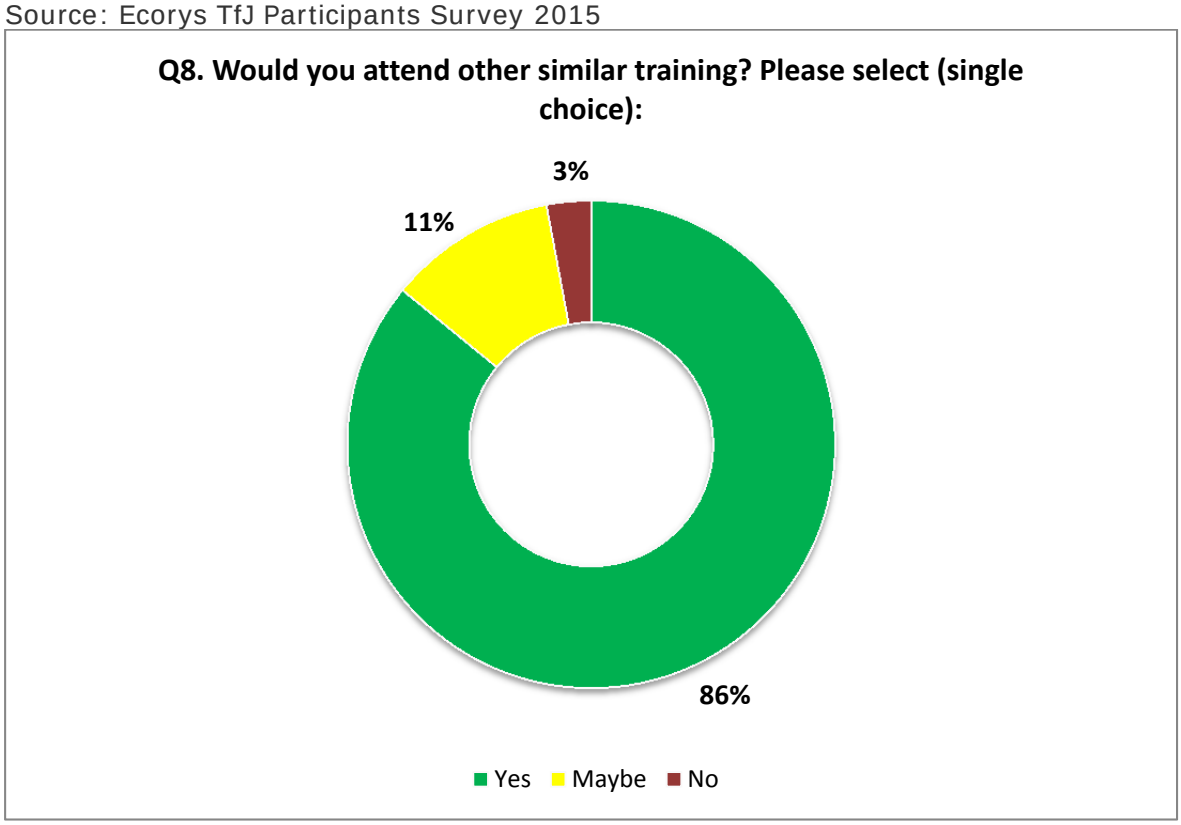

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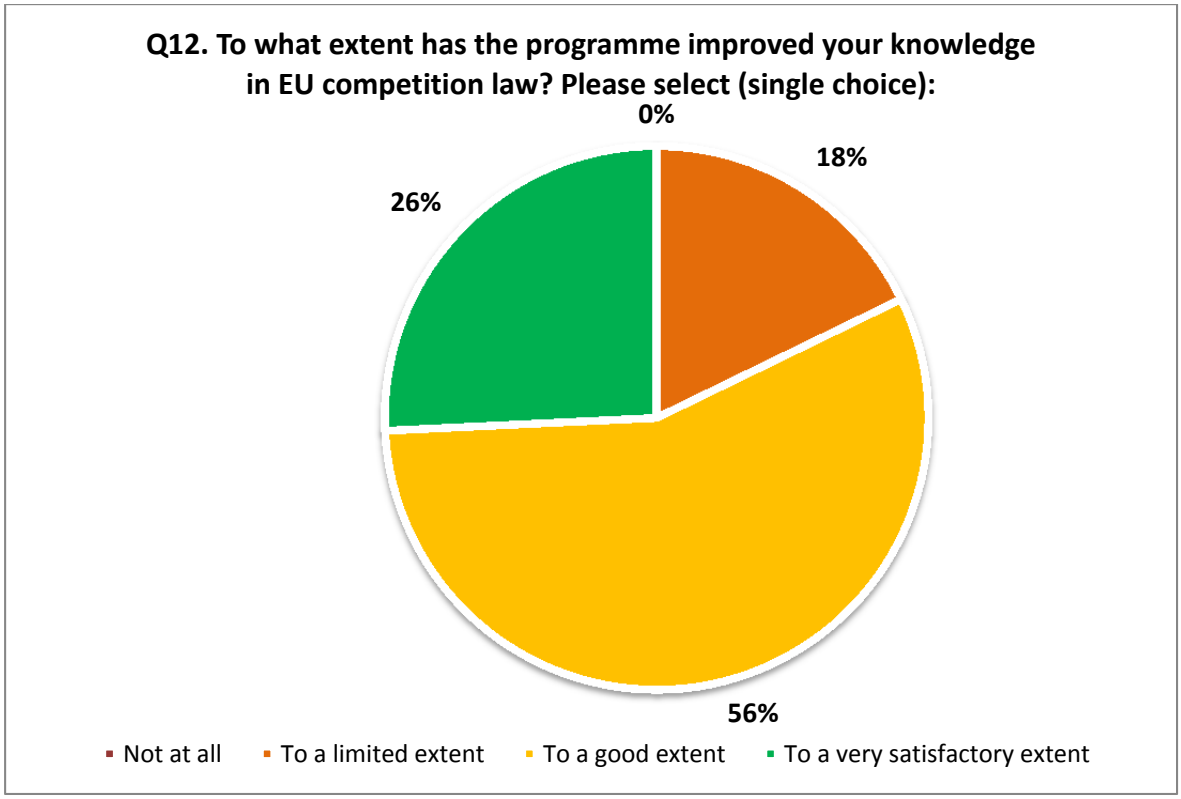

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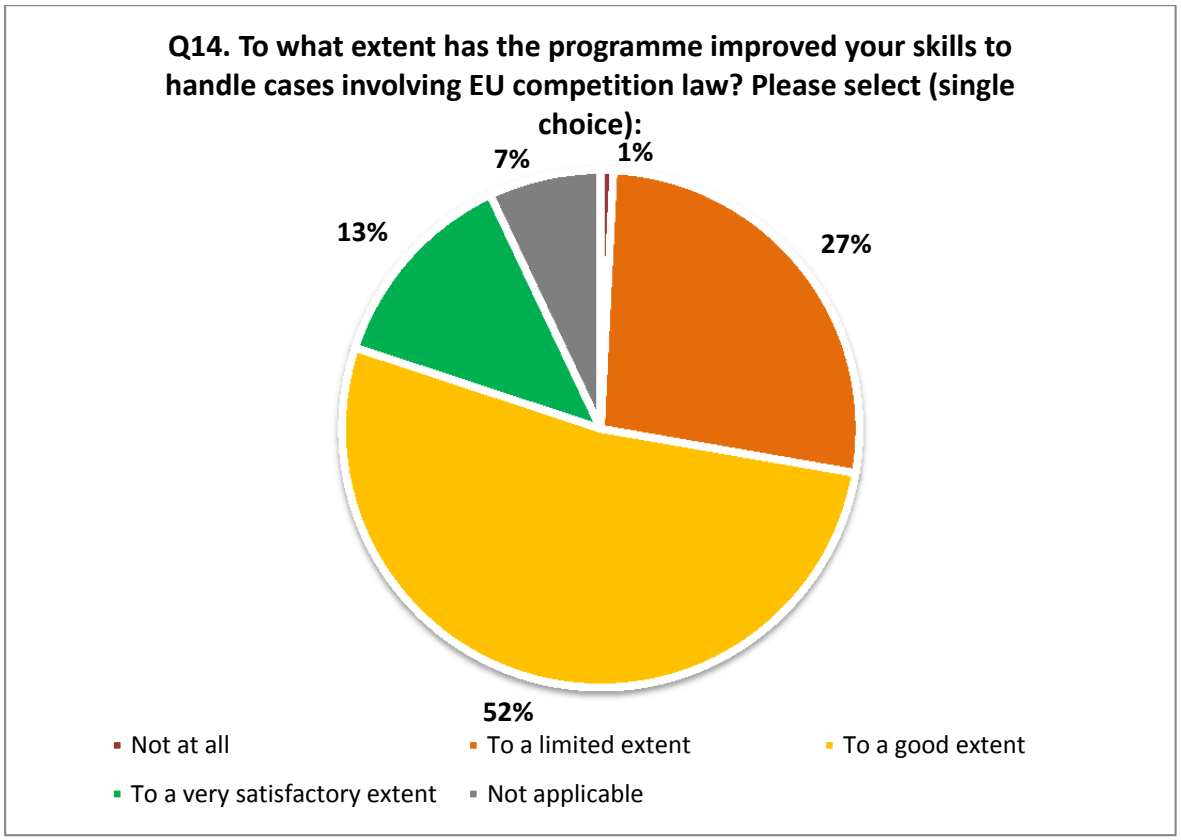

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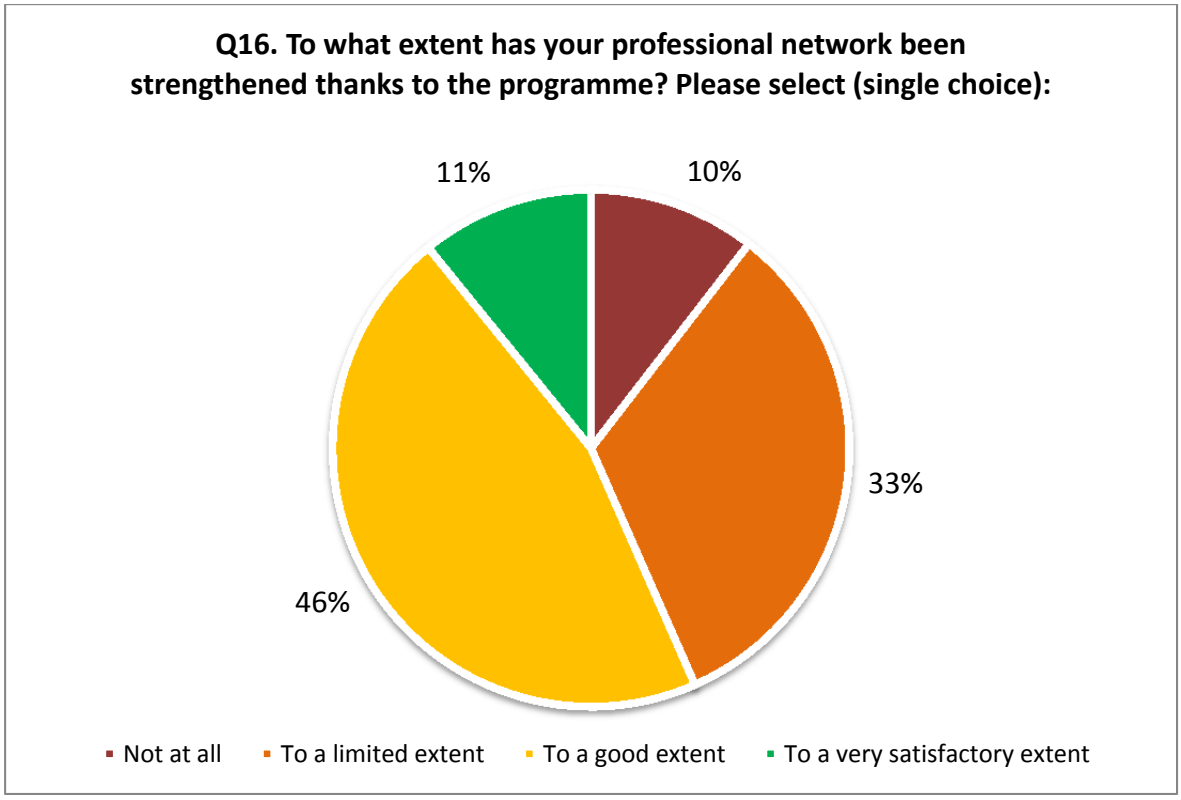
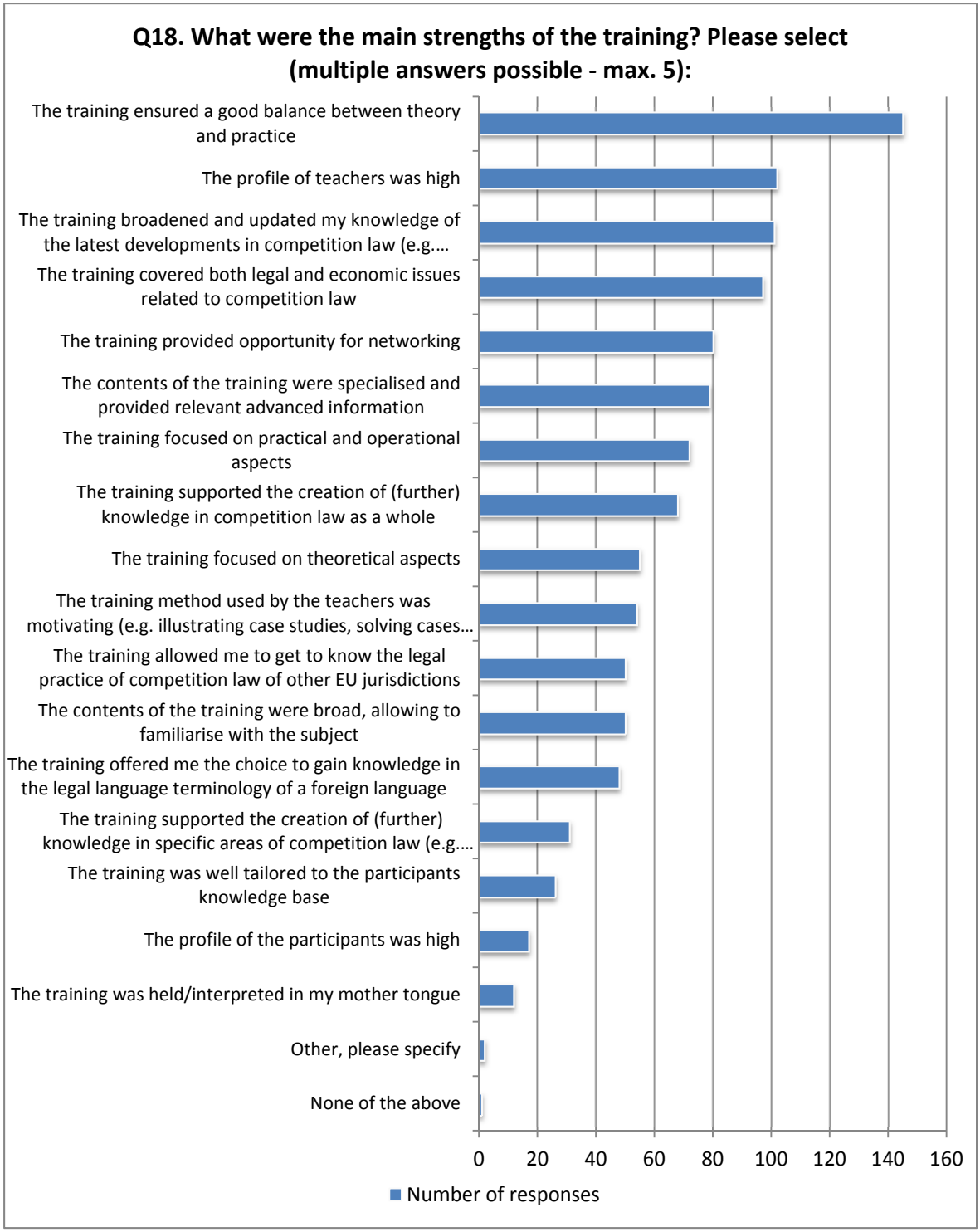


Source: Ecorys TfJ Participants Survey 2015



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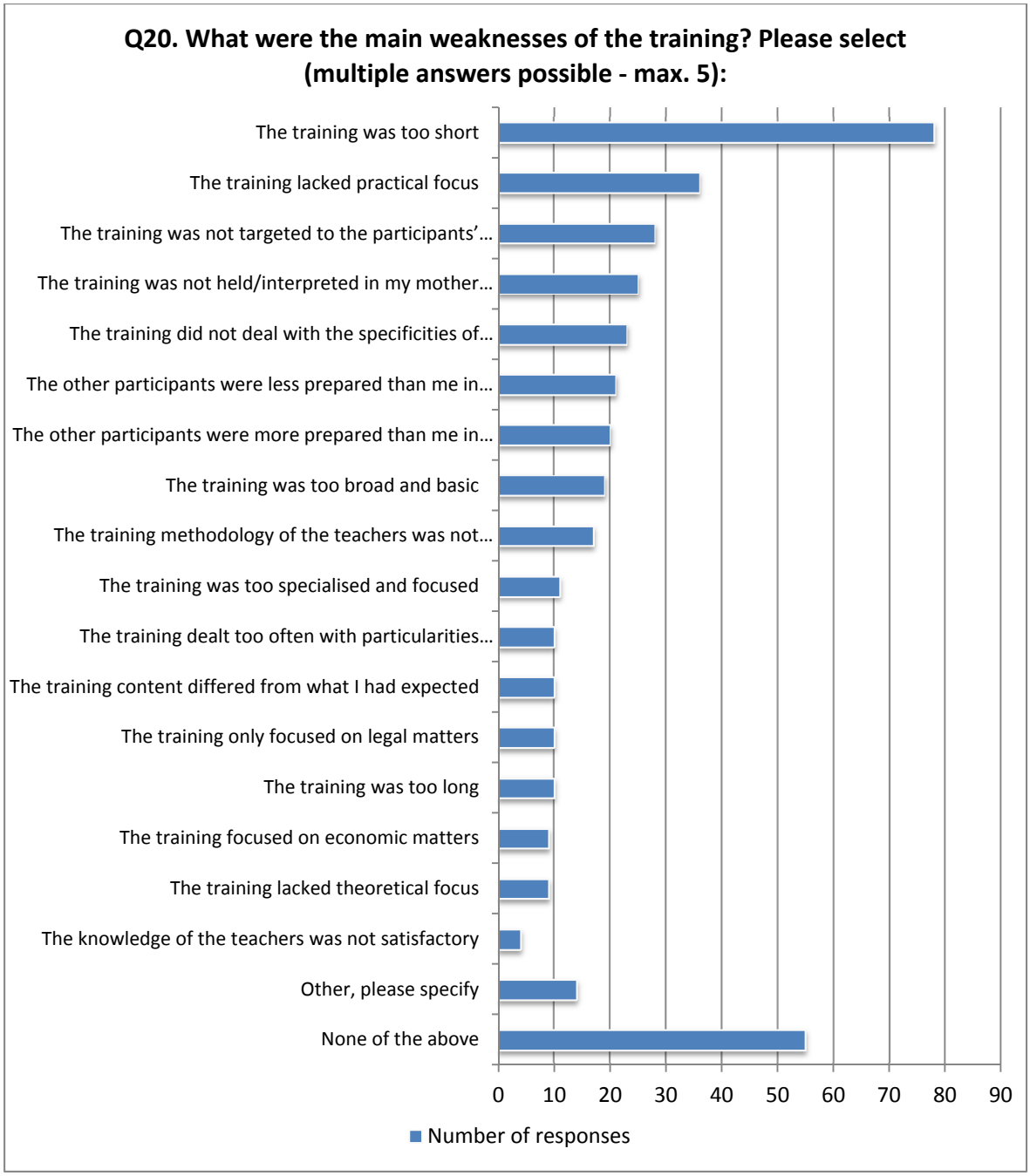

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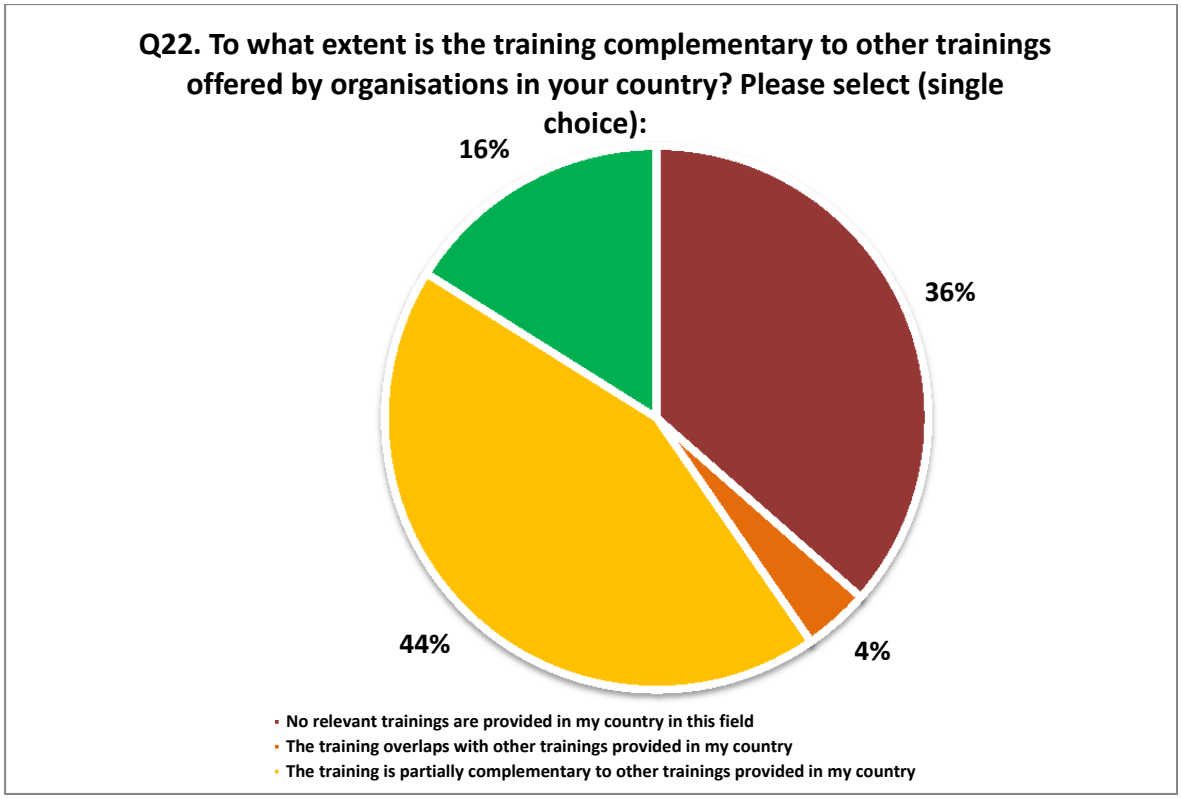

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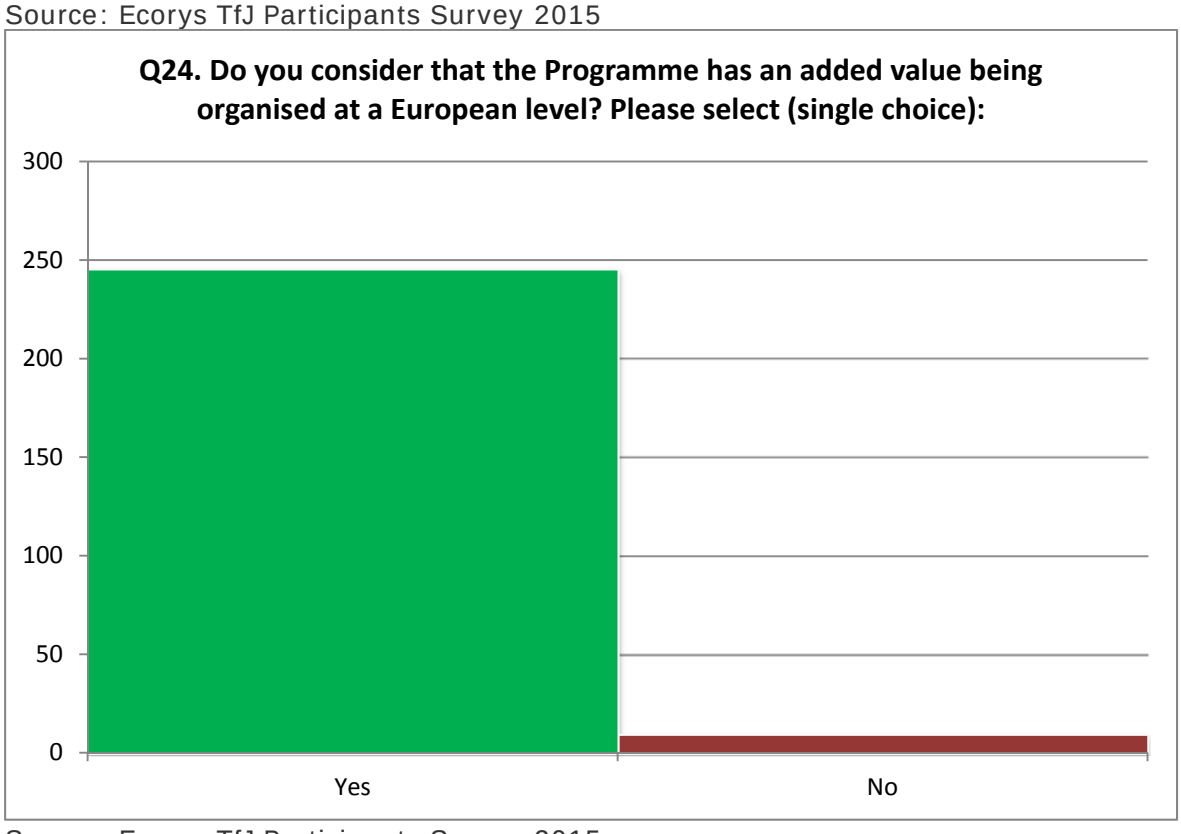

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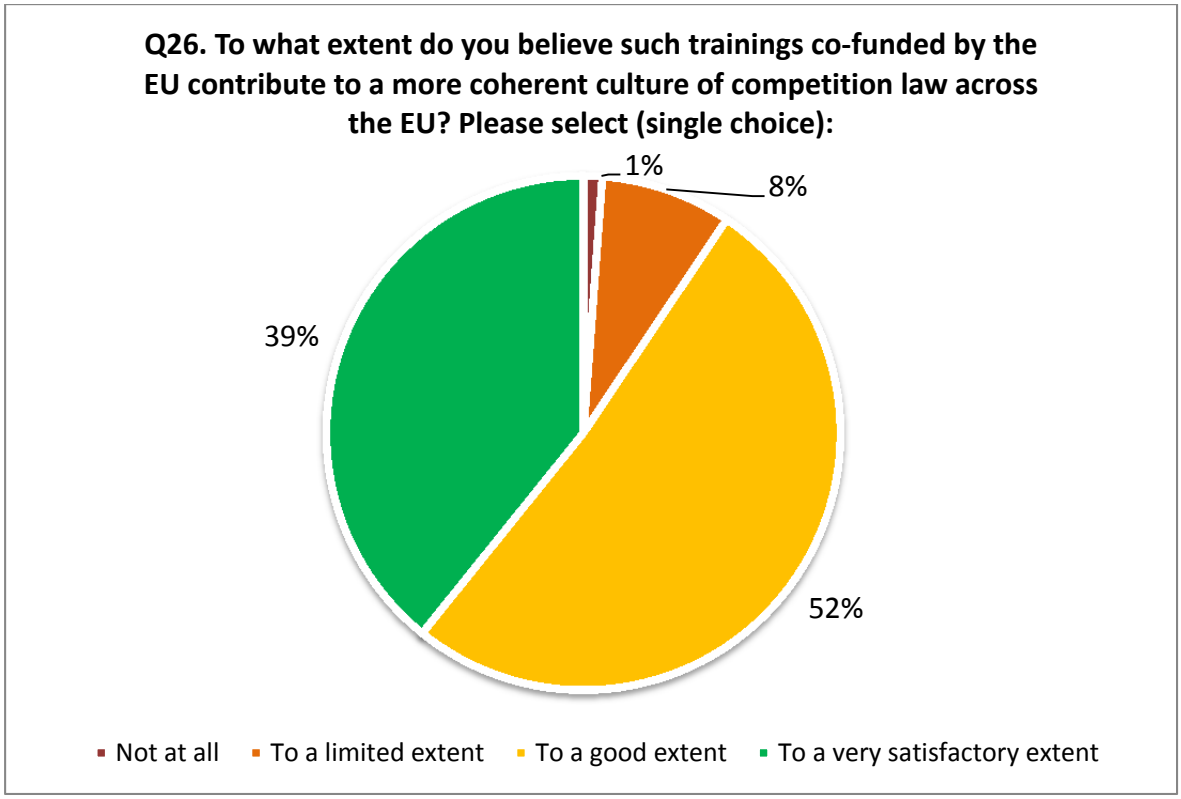

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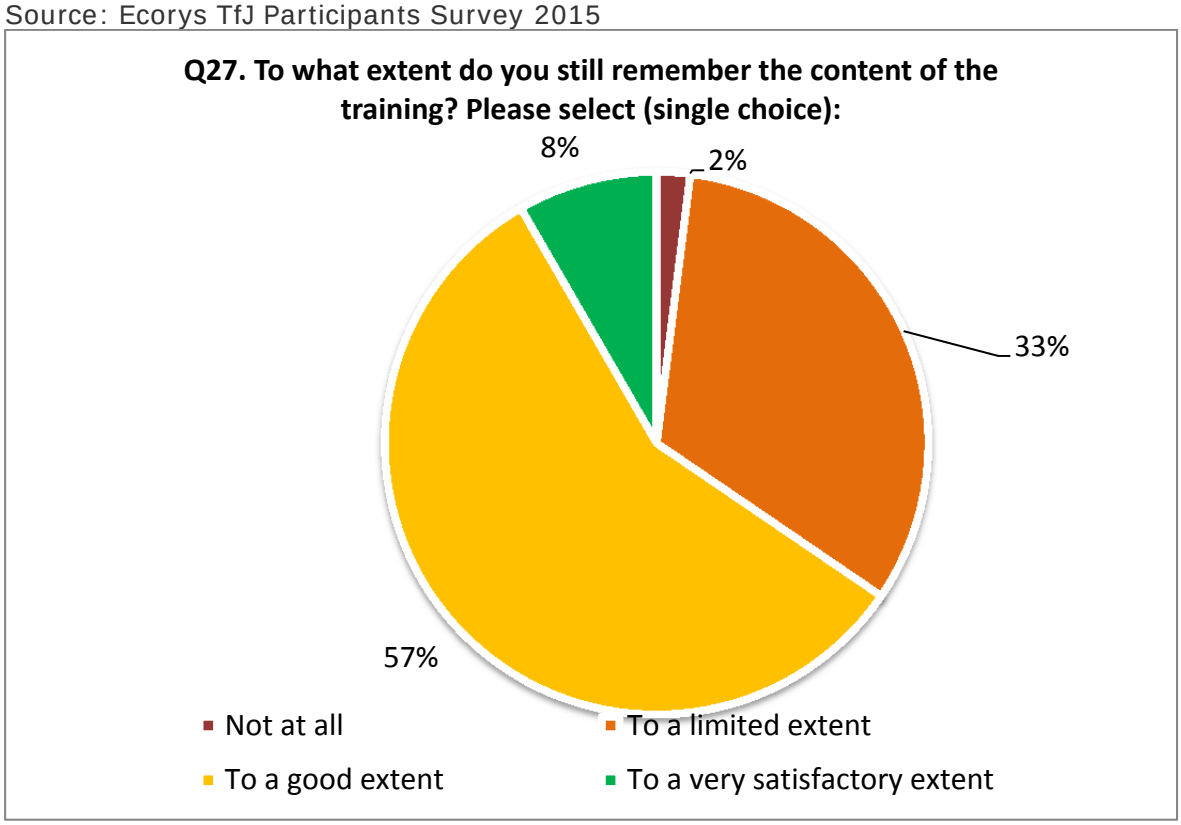

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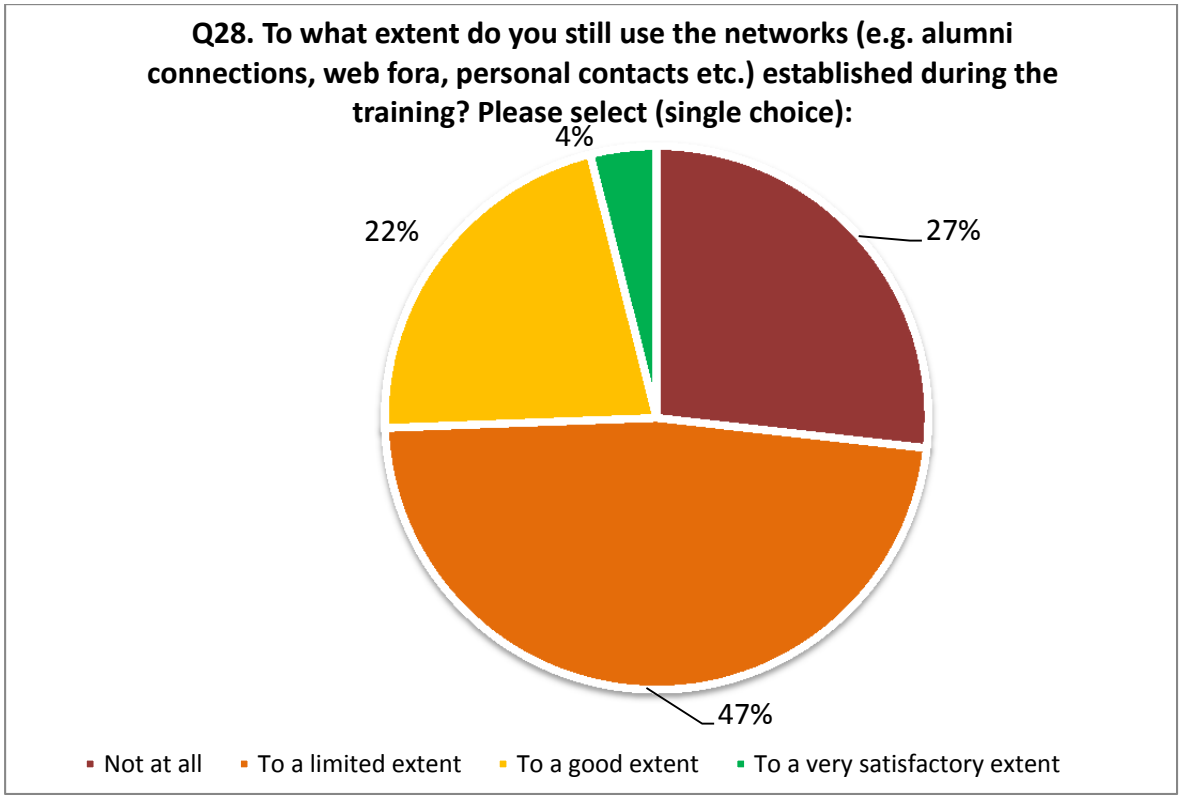
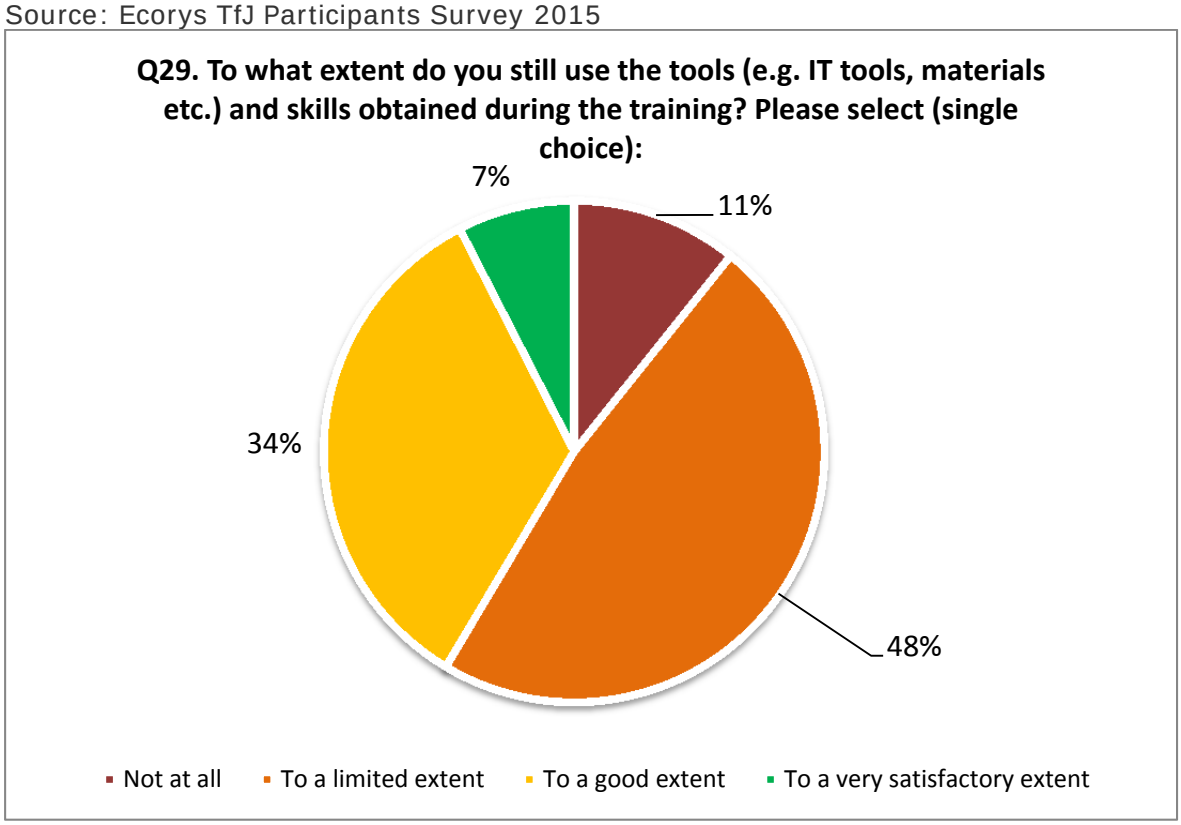


Source: Ecorys TfJ Participants Survey 2015



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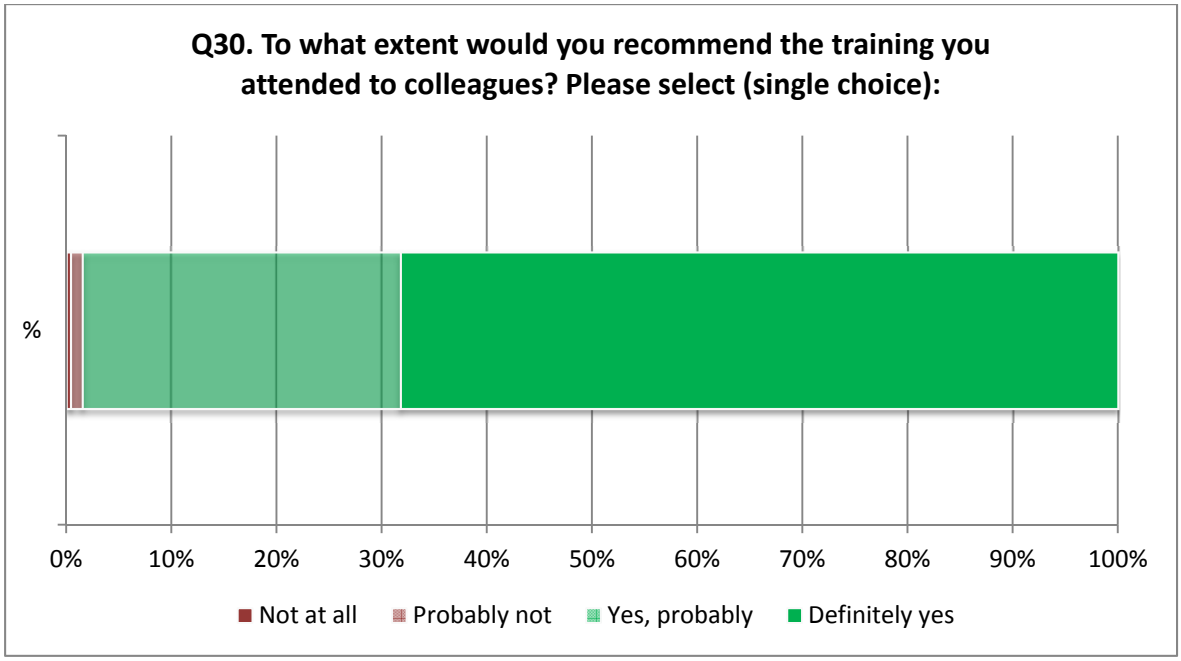
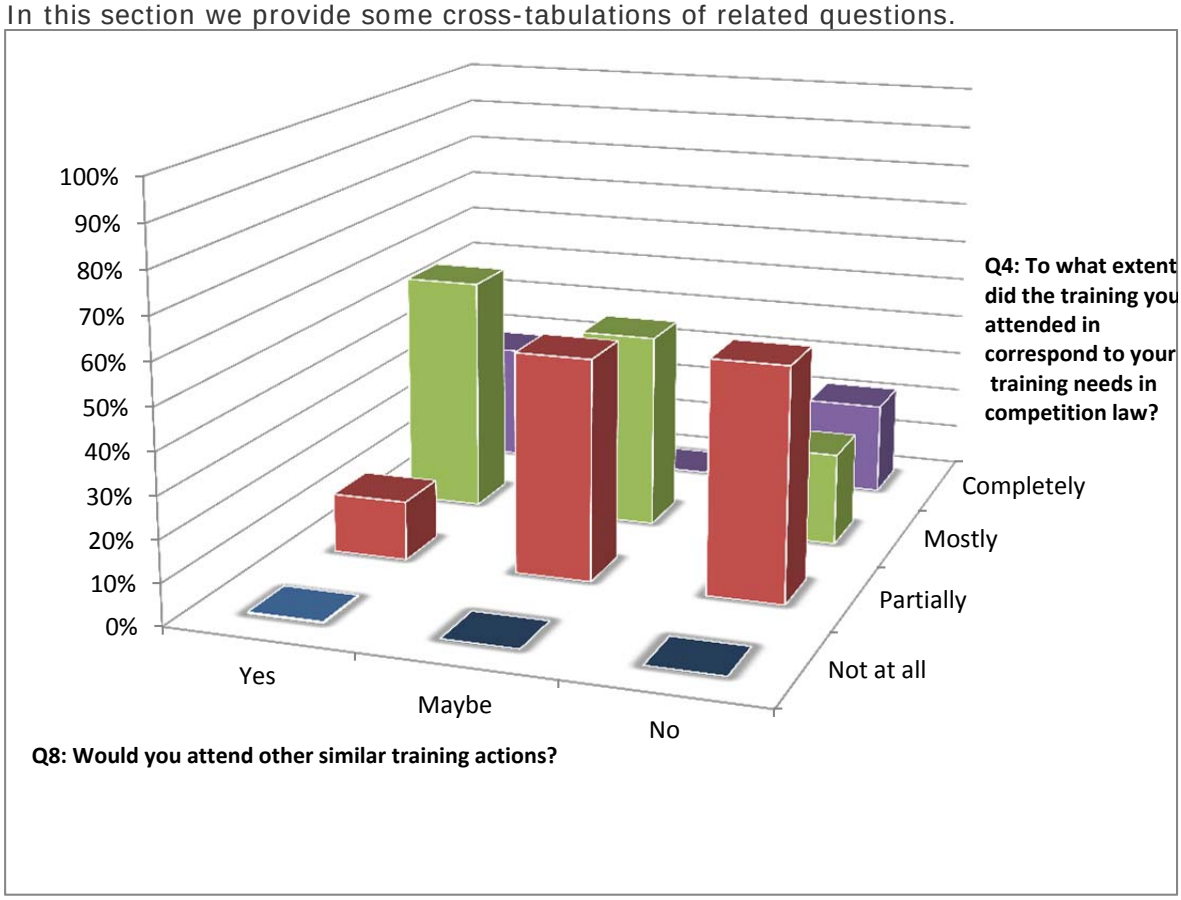


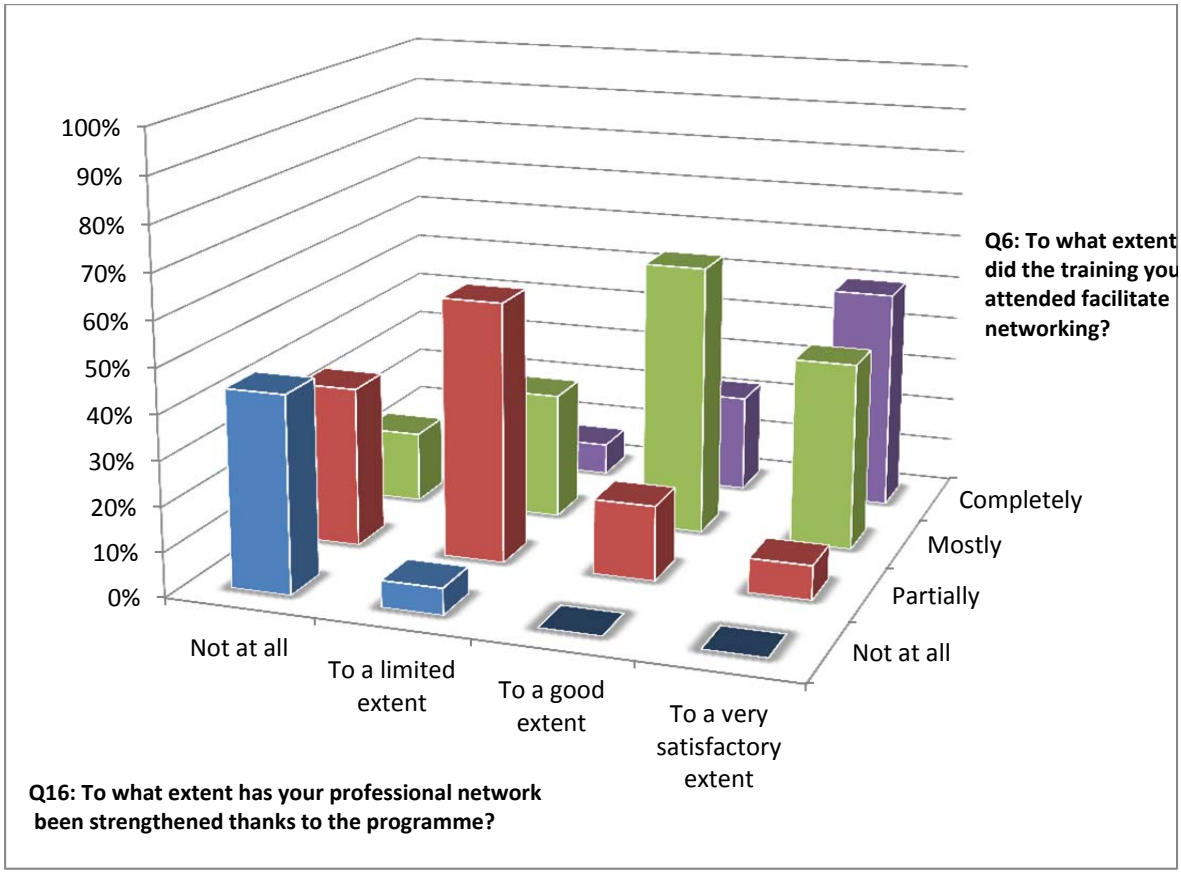
Source: Ecorys TfJ Participants Survey 2015

Cross-tabulation

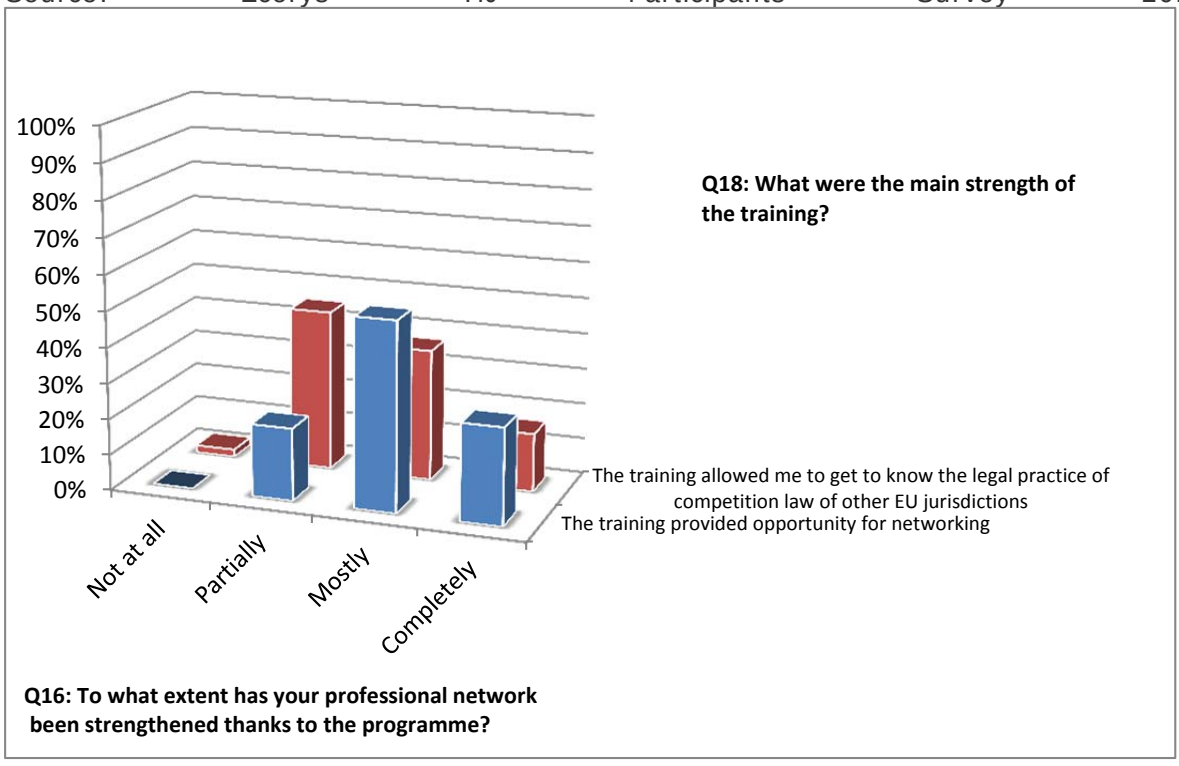
In this section we provide some cross-tabulations of related questions.



Source: Ecorys TfJ Participants Survey 2015



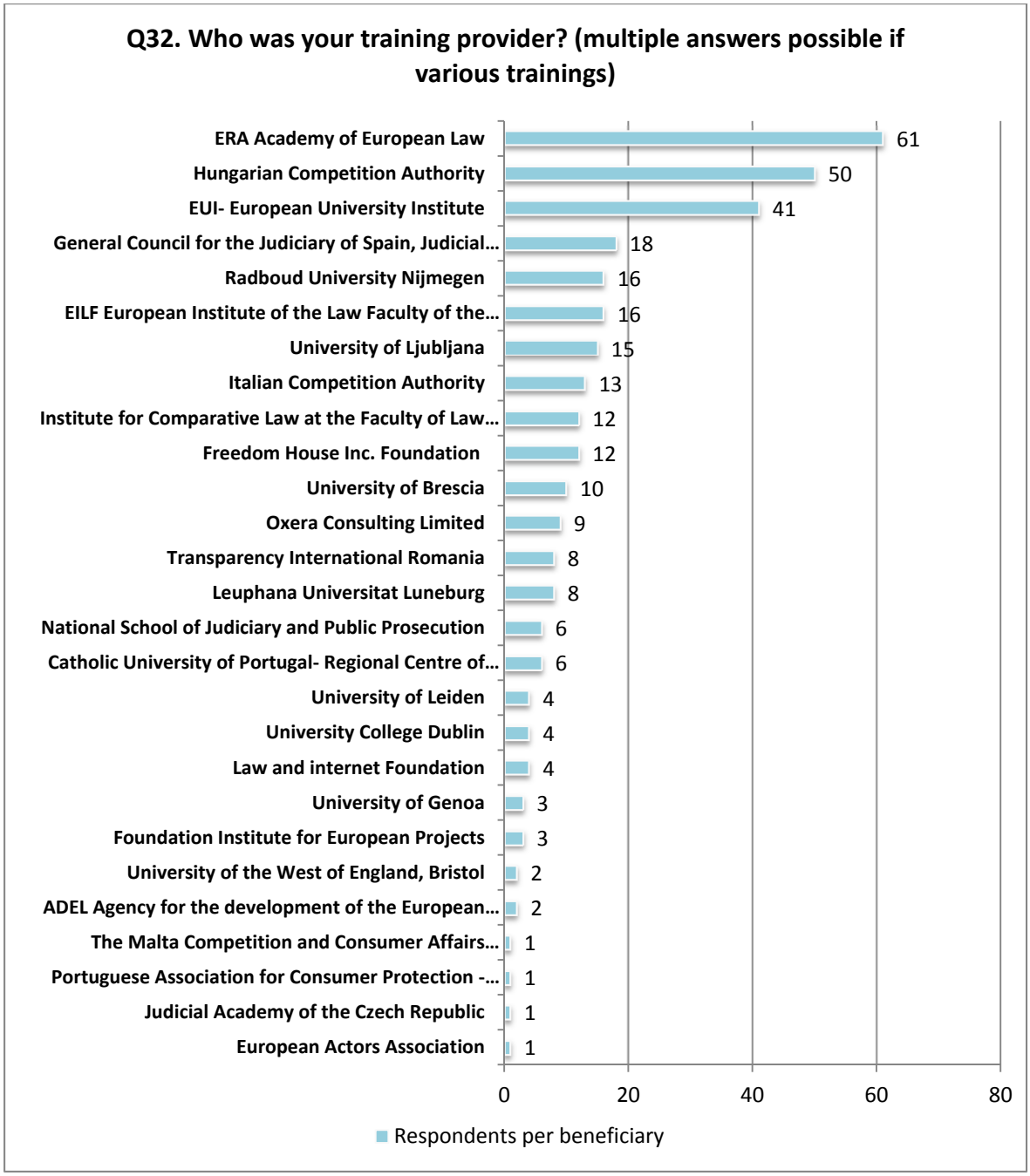
Source: Ecorys TfJ Participants Survey 2015



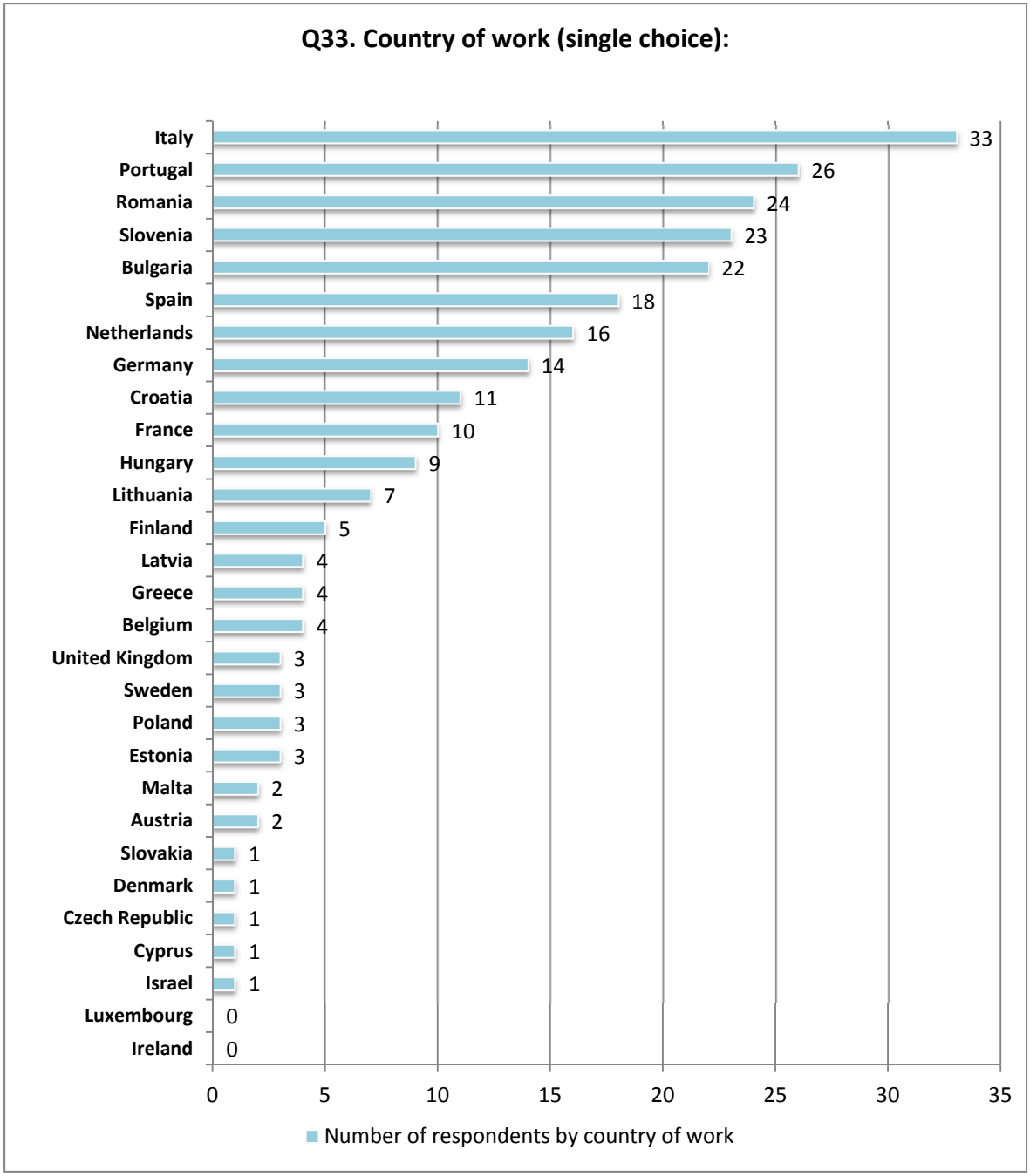
Source: Ecorys TfJ Participants Survey 2015

Respondents

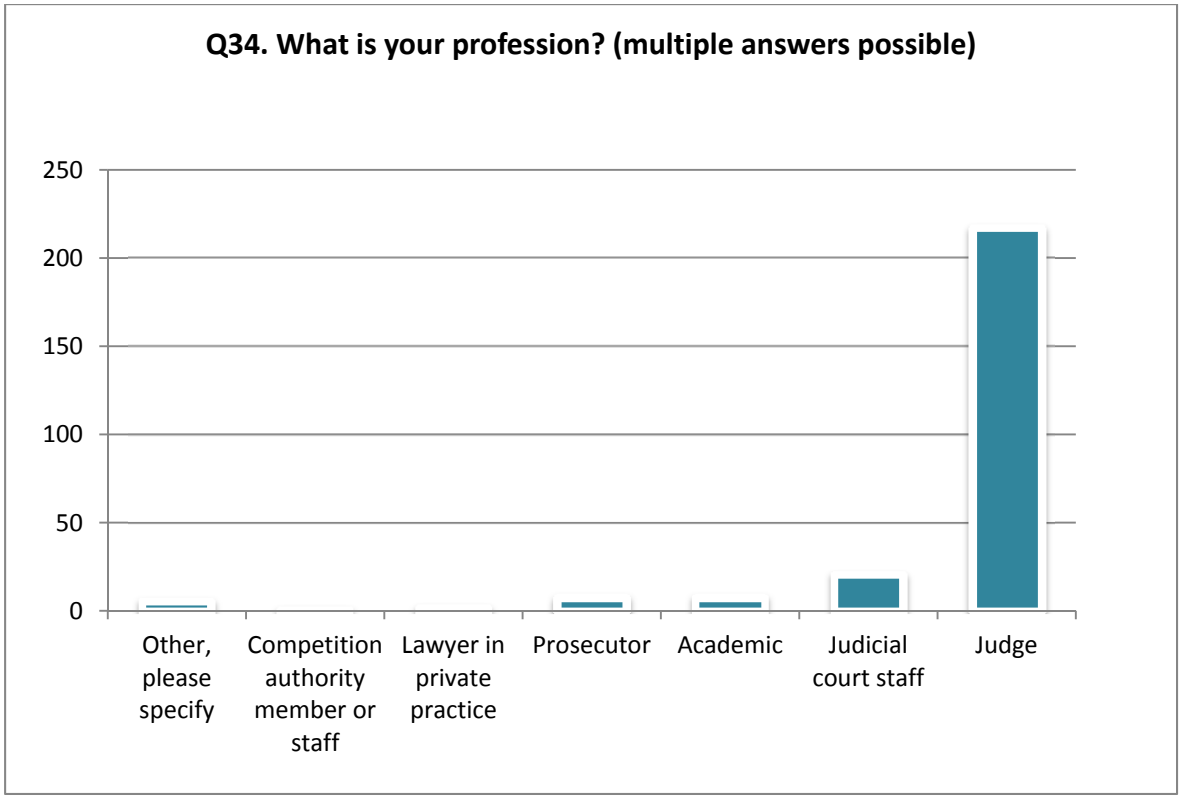
This section provides background information on the respondents of the survey.



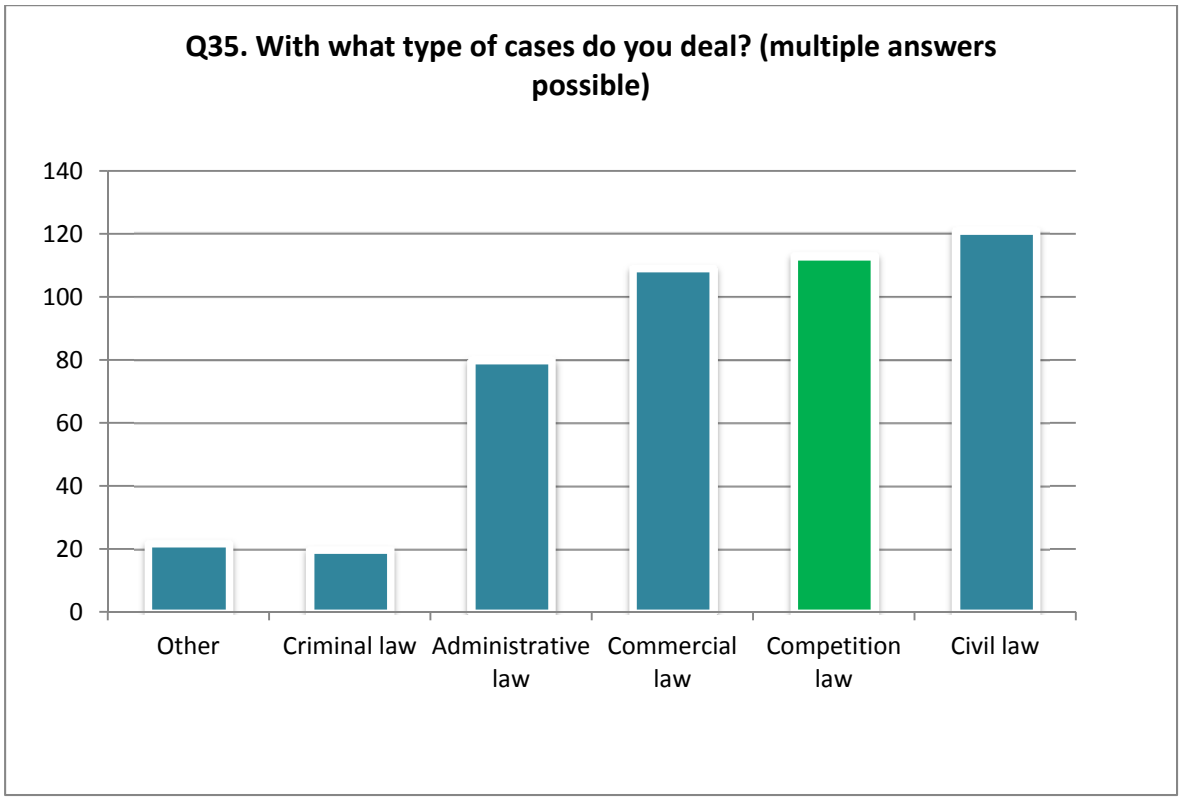
Source: Ecorys TfJ Participants Survey 2015



Source: Ecorys TfJ Participants Survey 2015



Source: Ecorys TfJ Participants Survey 2015



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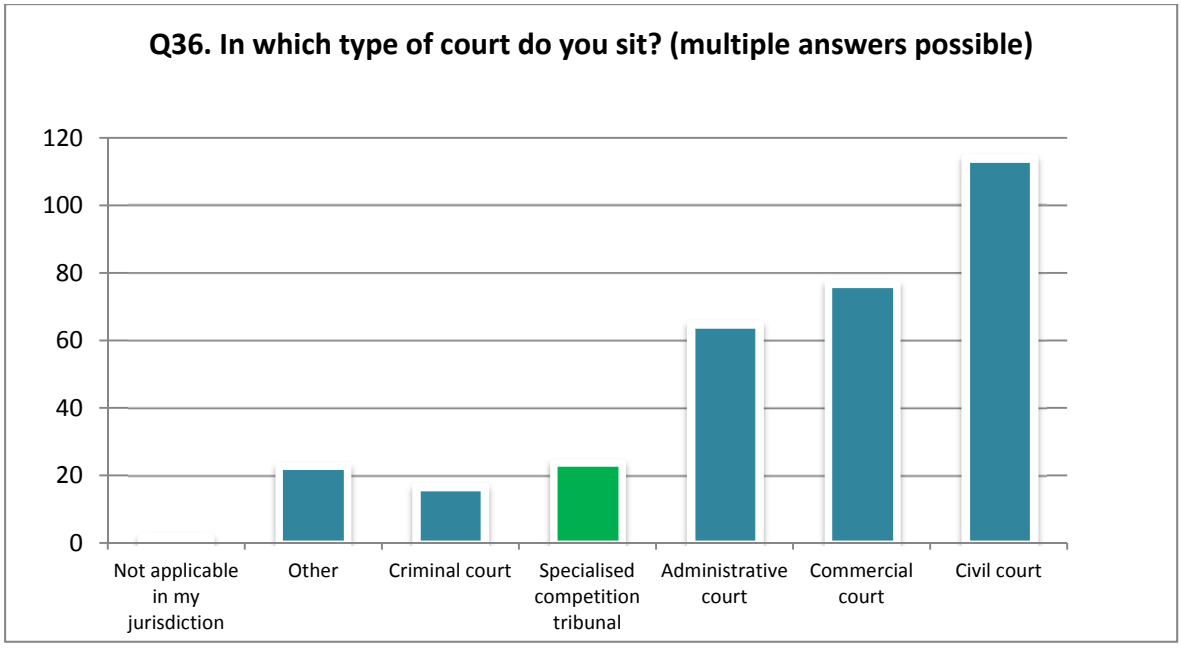

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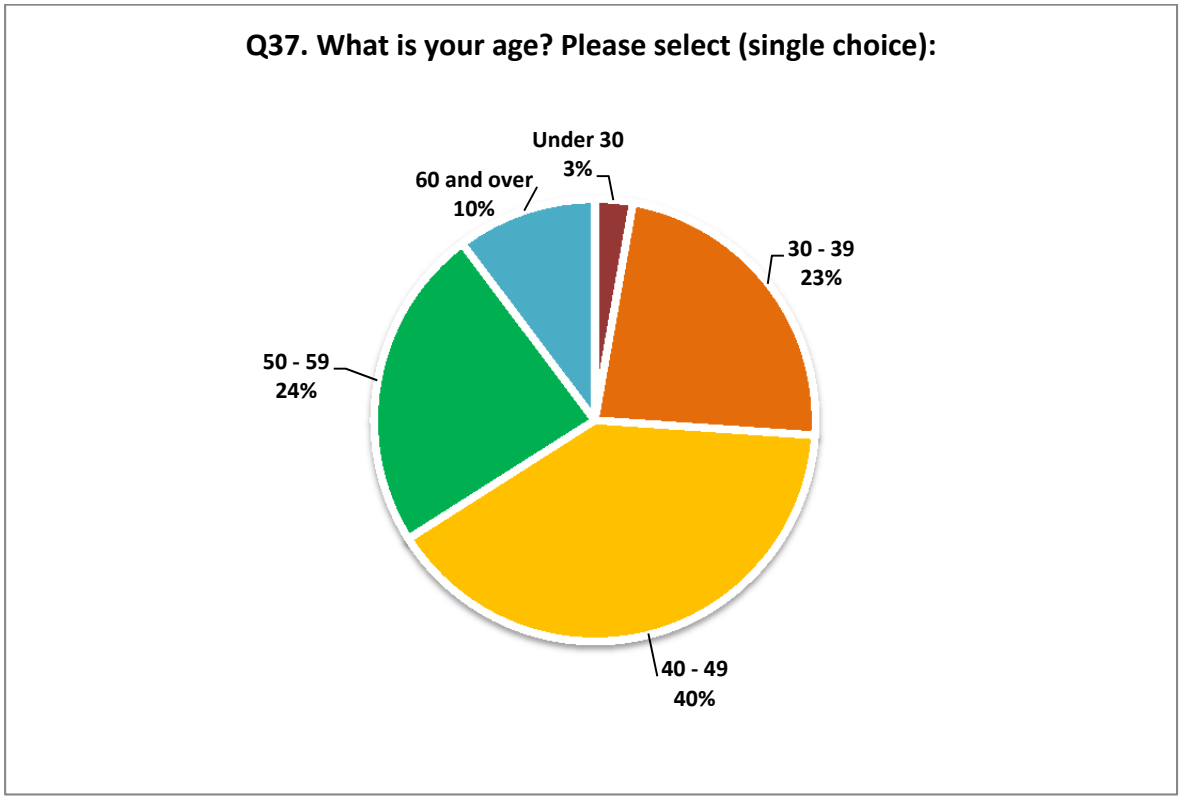

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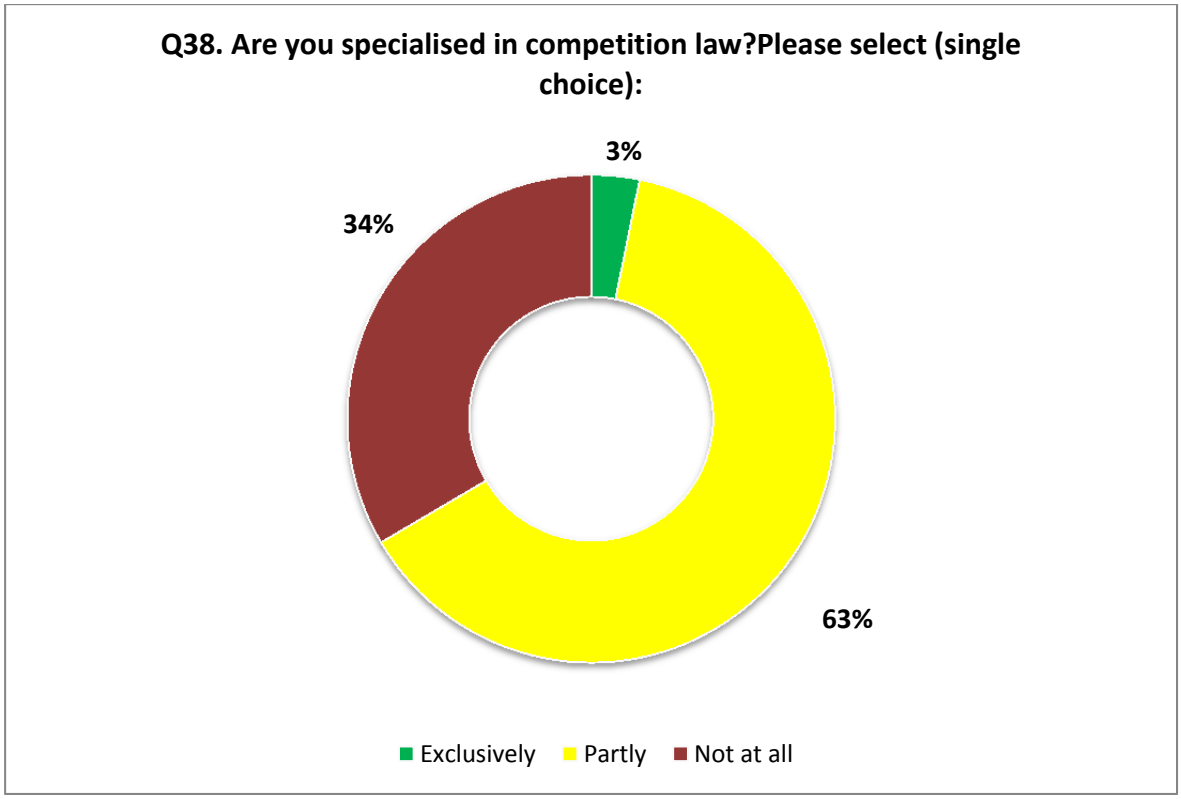

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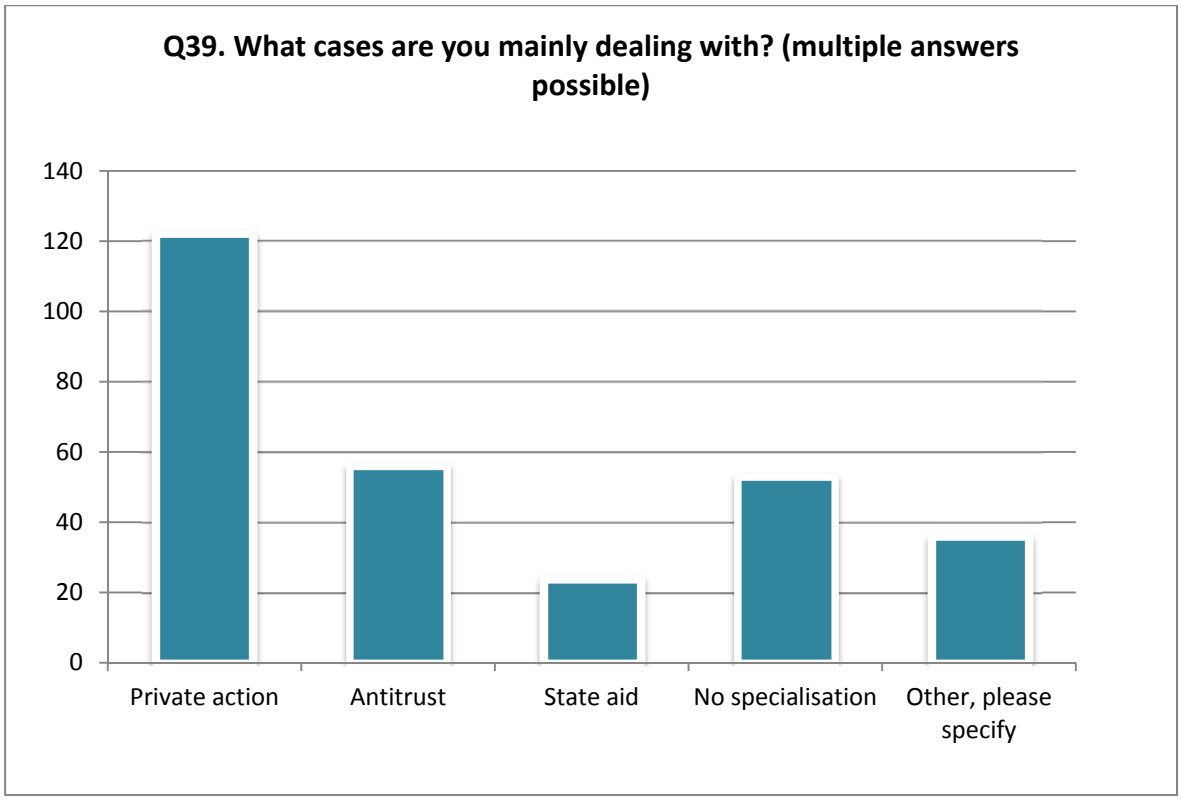
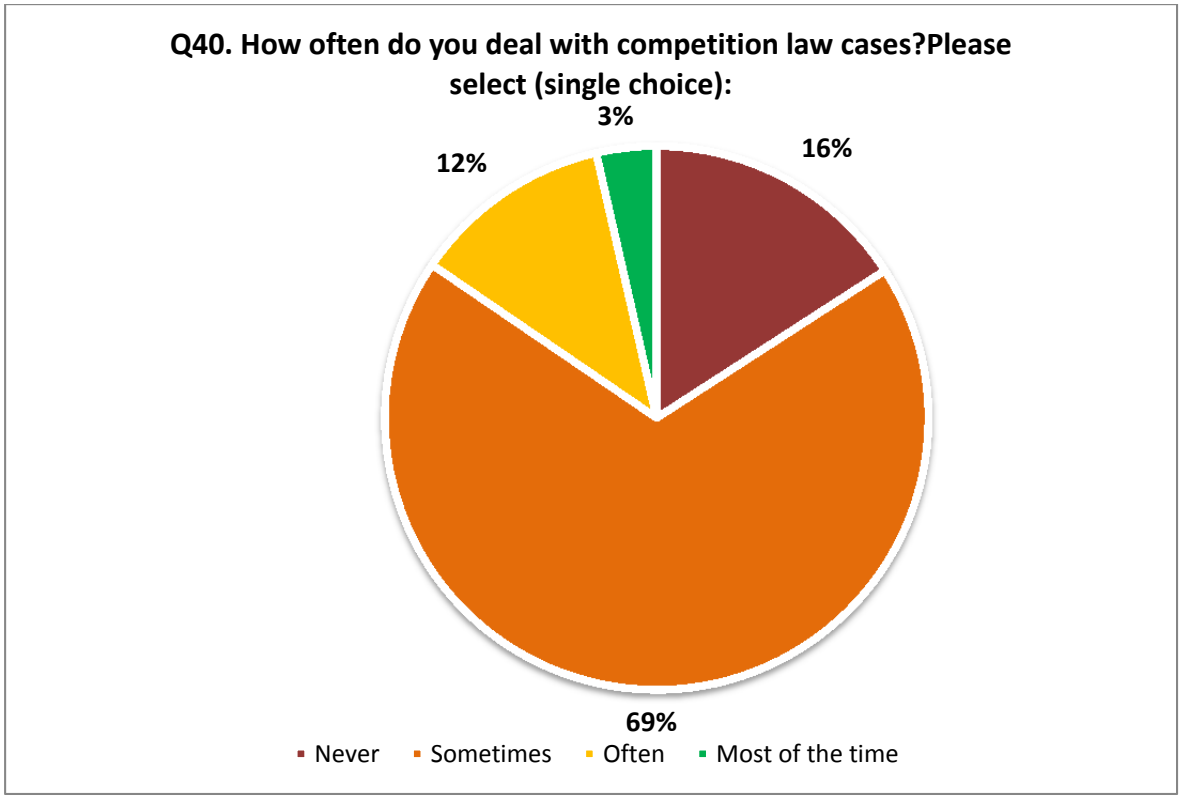
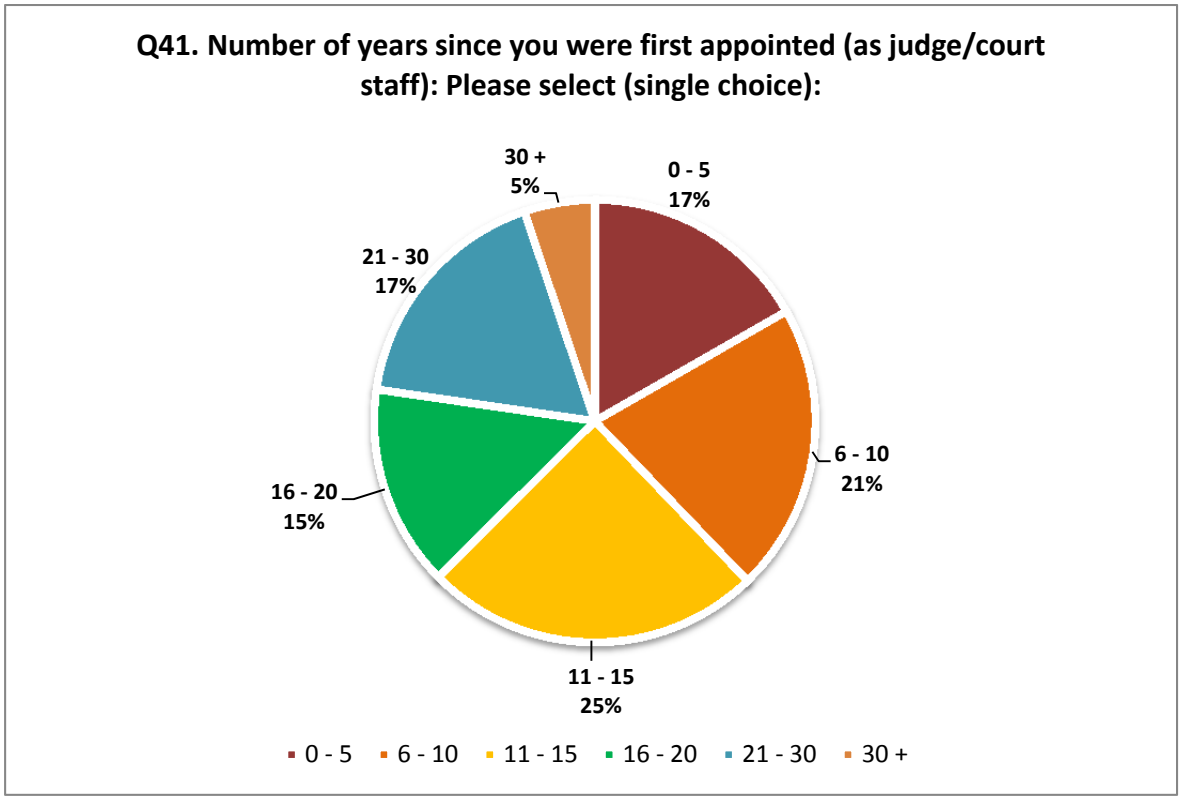


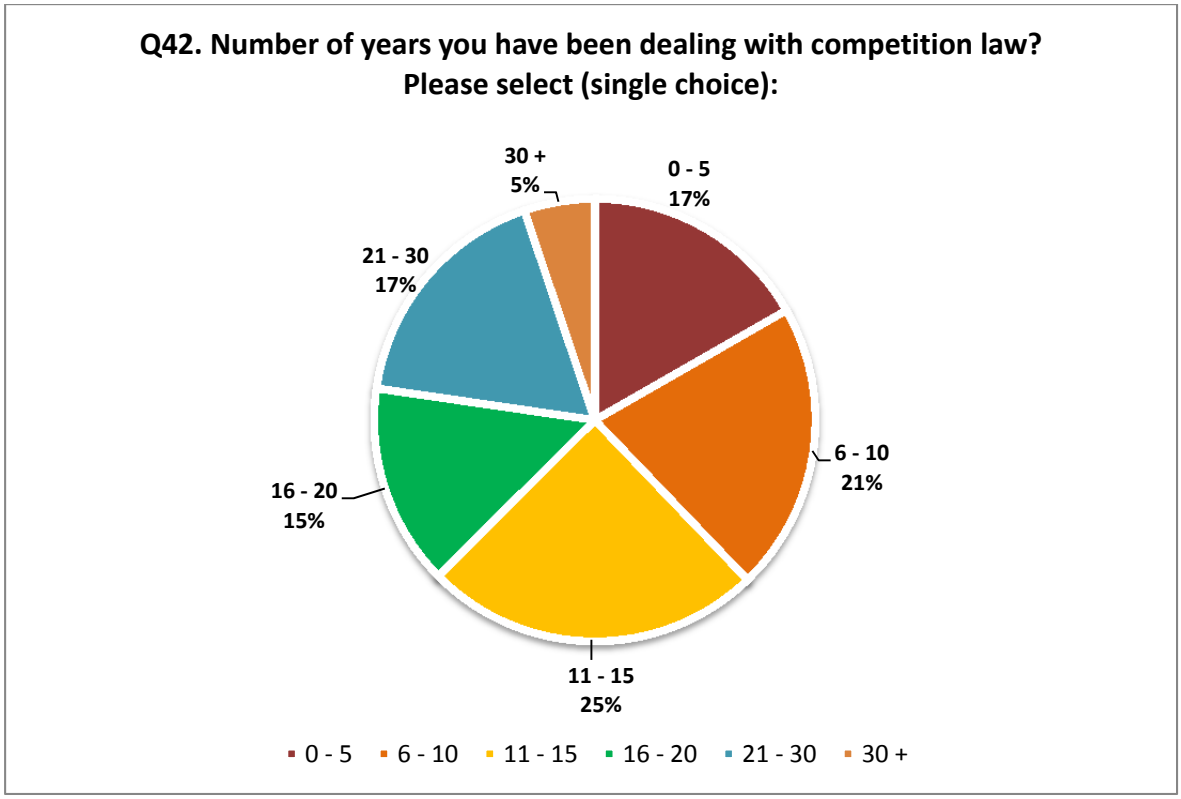
Source: Ecorys TfJ Participants Survey 2015



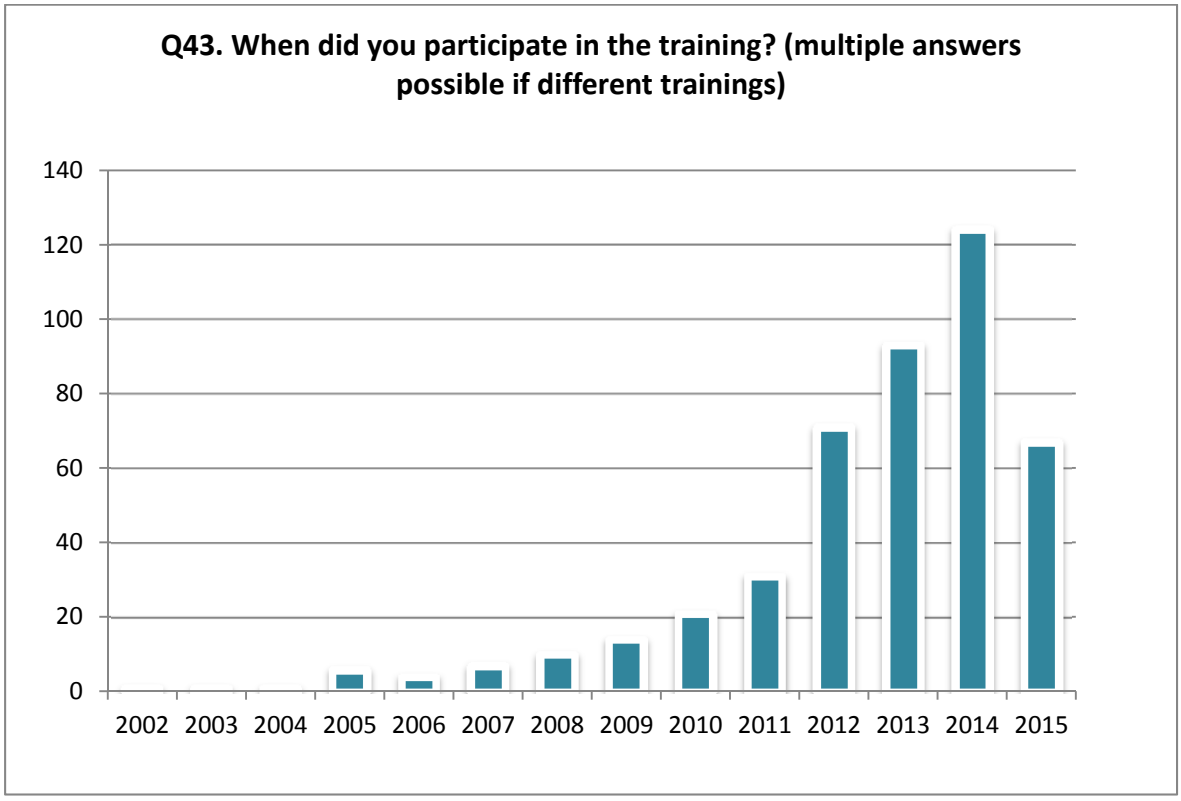
Source: Ecorys TfJ Participants Survey 2015



Source: Ecorys TfJ Participants Survey 2015



Source: Ecorys TfJ Participants Survey 2015



Source: Ecorys TfJ Participants Survey 2015

Annex 3.6. Interviews with training providers

The interviews at a project level were conducted with a series of training providers. The topic guide consisting of a series of questions to training providers is shown below. The purpose of these interviews was to improve the understanding of the project team with respect to the evaluation questionnaires. As part of the triangulation process the perspective of the training providers was taken into account in addition to the Programme managers, the participants' survey and literature. Interviewees were guaranteed non-traceability to their individual answers. Therefore precise transcripts cannot be shared.

Topic guide

Ecorys (together with ERA-EJTN) is currently conducting a study on "Judges' training needs in the field of competition law" for DG COMP. As part of this study Ecorys is responsible for the evaluation of the "Training of National Judges" programme.

The project has been launched in April and will end in January 2016. As part of the evaluation exercise we first conducted a series of interviews on a programme level with different stakeholders in the European Commission. We then conducted desk research and launched a survey among participants of the 'Training of National Judges' programme. Having now the view of the programme initiators and the final beneficiaries, it is also important to understand the view of training providers on the current form of the programme.

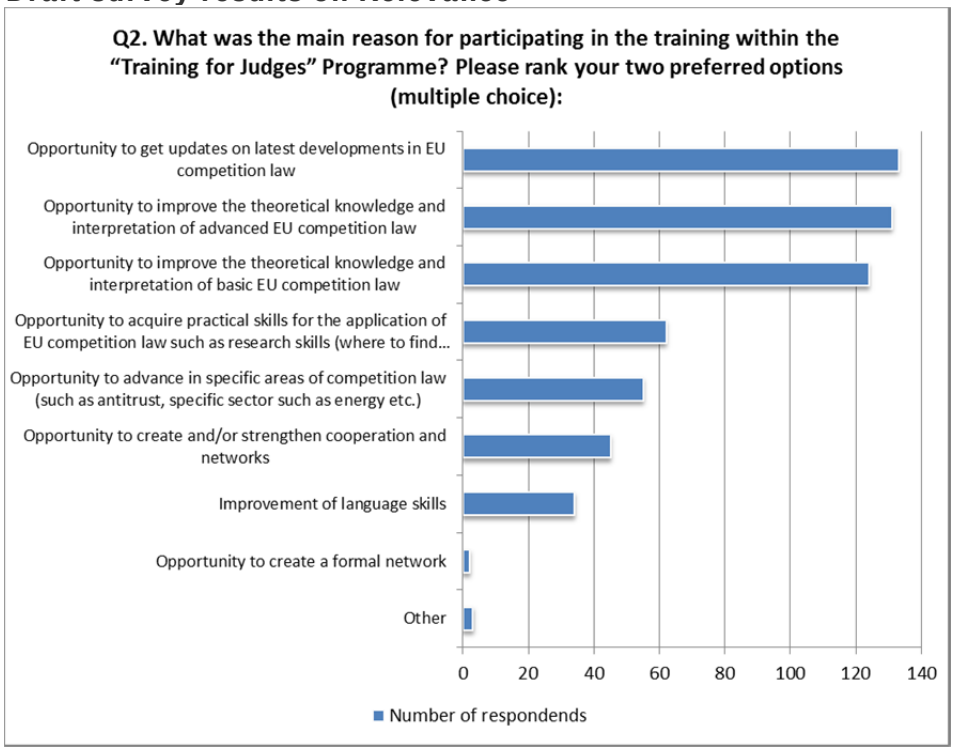
We would therefore like to discuss in a very open format the following **topics related to your training programme within the 'Training of National Judges' programme**, as well as some preliminary survey results.

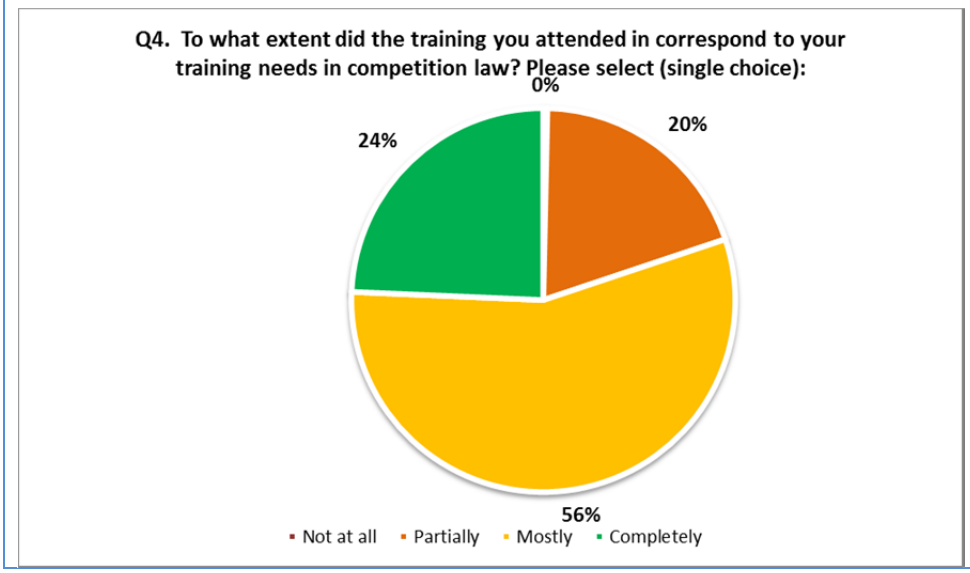
Introduction
Background of the trainings/origin/persons involved
How did you get aware of the possible funding through the 'Training of National Judges' programme?

Objectives
What are the objectives of the training?
What are the reasons for launching the training?
Have the objectives changed over time and if so why?

Relevance
Which are the main training needs and interests of judges in the field of competition law?
What are the main aspects that are lacking in the training offer in the field of competition law at national level?
Do you think the training offered through the Programme is tackling these needs?
Why do you think in some Member States there are no such trainings provided?
Does the training sufficiently support networking?
Please have a look at the draft survey results below. Do you have any comments on those?

Draft survey results on Relevance





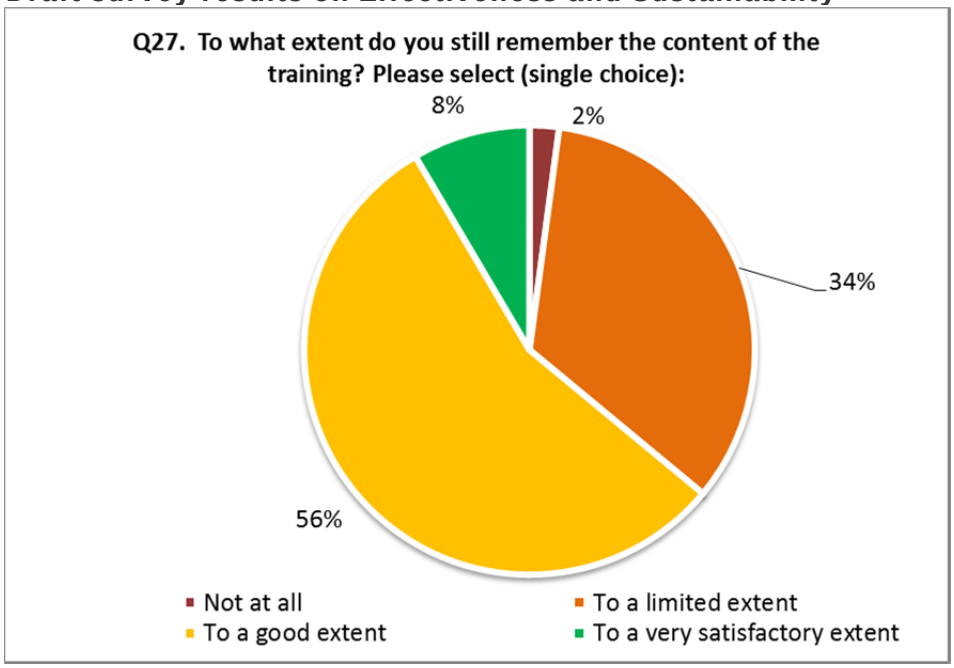
Design & Implementation

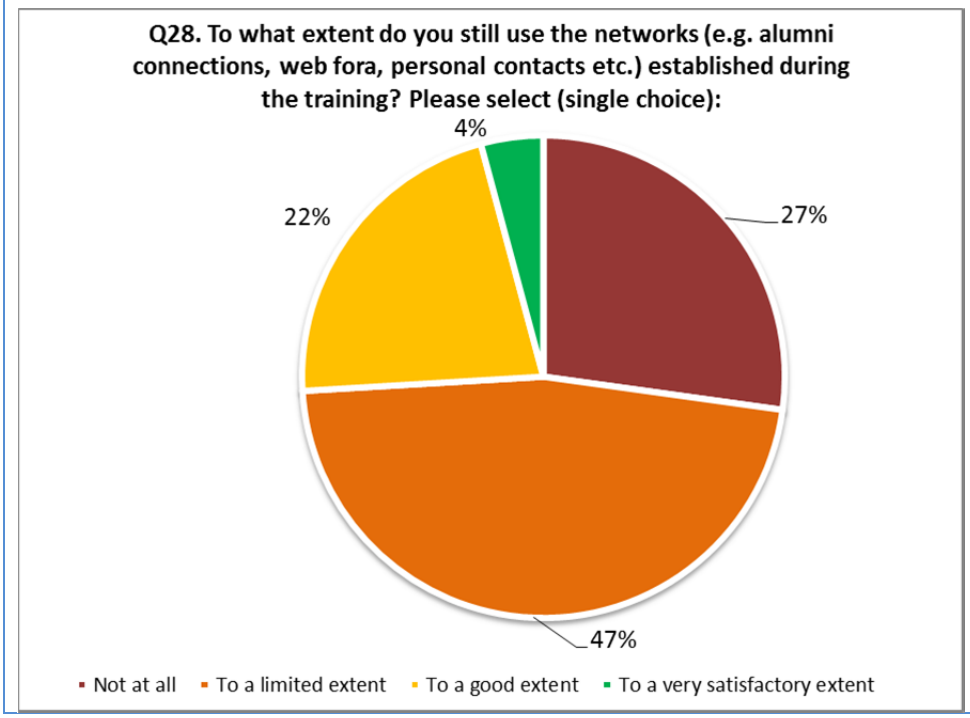
How is the training designed?
Who is responsible for what?
How much money is invested?
Who are you targeting?
Do you also get other funding?
Which kind of support do you receive from the 'Training of National Judges' programme (i.e. financial, technical, logistical support…)?
Is the 'Training of National Judges' programme complementary to other support or training programmes at a national level?

Effectiveness and Sustainability

What are the main effects/outcomes of the training?
How many persons have been trained? Are there specific trends?
Do these numbers go in line with the expectations?
Are you conducting trainings in different Member States? If yes, are there differences between Member States?
Have networks and databases created through the training remained active?
How do you support the sustainability of the results achieved through the training?
Please have a look at the draft survey results below. Do you have any comments on those?

Draft survey results on Effectiveness and Sustainability





Monitoring & Evaluation:
What monitoring system are you using for the programme-related activities/ other training activities that you carry out?
Have you changed the monitoring/evaluation system over time? Why (not)?
How do you evaluate the training?
Which would you, in your opinion, relevant indicators to monitor and assess this kind of programmes? Could you please provide relevant examples, for instance from your experience in this/other similar initiatives?

Success factors and good / bad practices
What are the key success factors for your training?
Have you made specific surprising experiences?
Can you provide good/bad practice examples?

Outlook / Recommendations
Do you expect increasing/decreasing demand for further training in the field?
What would you like to change in the 'Training of National Judges' programme?

Abstract
This study maps the jurisdictions at national level for the application of European Union competition law, including enforcement of its State aid rules. It details the courts competent in the Member States for public enforcement, private enforcement and State aid cases, including the responsible chambers or divisions and the number of judges sitting in them. It analyses the needs and demand for training among judges and proposes specific training profiles. It highlights the important role of the specialisation of courts in concentrating cases, developing expertise and enabling training to be targeted efficiently. The study also evaluates DG Competition's "Training of National Judges" programme, proposes performance indicators and makes concrete recommendations for ensuring that the programme meets the needs of judges dealing with EU competition law in the future. The study has benefited from close cooperation with the judges and institutions concerned, including extensive surveys of both practising judges and former participants in European Commission-funded training programmes.

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